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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND ENFORCEMENT COMMITTEE

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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Michael Paparian, Chairperson

Sal Cannella

Steven R. Jones

Carl Washington

STAFF

Mark Leary, Executive Director

Kathryn Tobias, Chief Counsel

Julie Nauman, Acting Chief Deputy Director

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Scott Walker, Acting Deputy Director

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Mark de Bie

Bob Fujii

Keith Kennedy

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Virginia Rosales

Bernie Vlach

Glenn Young

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INDEX

	PAGE
A. Selection Of Committee Chair	3
B. Roll Call And Declaration Of Quorum	1
C. Deputy Director's Report	5
D. Consideration Of A Revised Full Solid Waste Facilities Permit (Disposal Facility) For Bradley Landfill West And West Extension, Los Angeles County -- (January 2003 Board Item 38)	36
E. Consideration Of A New Full Solid Waste Facilities Permit (Transfer/Processing Station) For The Sunset Wastepaper Material Recovery Facility And Transfer Station, Fresno County -- (January 2003 Board Item 39)	10
Motion	35
Vote	35
Afternoon Session	88
F. Discussion And Request For Rulemaking Direction On Noticing Revisions To The Proposed Waste Tire Monofill Regulatory Requirements For An Additional 15-Day Comment Period -- (January 2003 Board Item 40)	88
G. Discussion And Request For Rulemaking Direction On Noticing Revisions To The Proposed Construction And Demolition And Inert Debris Processing Tiered Regulations For An Additional Public Comment Period -- (January 2003 Board Item 41)	135
H. Presentation And Discussion Of The Closed, Illegal, And Abandoned Site Program -- (January 2003 Board Item 42)	136
I. WORKSHOP -- Discussion Of The Board's Strategic Plan Goal 4 And The Permitting And Enforcement Division (Oral Presentation) Agenda Item (Word 97, 151 KB)	180

INDEX CONTINUED

	PAGE
Public Comment	199
Adjournment	199
Reporter's Certificate	201

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

PROCEEDINGS

CHAIRPERSON PAPARIAN: Good morning, everybody.

Happy New Year.

This is a meeting of the Permitting and
Enforcement Committee.

To get started I want to introduce our new
Committee Secretary, Sue Kumpulainien down here in the
front, who is probably familiar to many people. She'd
been working up until last week for Mr. Cannella. And
we're very happy to have her our way. I know that it's a
loss from your end of things, but --

COMMITTEE MEMBER CANNELLA: Serves a better need.

CHAIRPERSON PAPARIAN: So to start the day we
should have a roll call.

SECRETARY KUMPULAINIEN: Cannella?

COMMITTEE MEMBER CANNELLA: Present.

SECRETARY KUMPULAINIEN: Jones?

COMMITTEE MEMBER JONES: Here.

SECRETARY KUMPULAINIEN: Paparian?

CHAIRPERSON PAPARIAN: Here.

SECRETARY KUMPULAINIEN: Washington?

COMMITTEE MEMBER WASHINGTON: Here.

CHAIRPERSON PAPARIAN: Okay. And then any ex
partes that people need to report?

Mr. Cannella.

1 COMMITTEE MEMBER CANNELLA: I do. I have one
2 from SF Environment, David Esman; California Refuse
3 Removal Council with Kelly Aster and Sean Edgar; and the
4 Alameda County Waste Management Authority, Karen Smith.

5 CHAIRPERSON PAPARIAN: I probably, I would
6 suspect, that most of those are related to C&D?

7 COMMITTEE MEMBER CANNELLA: Oh, yes.

8 CHAIRPERSON PAPARIAN: I'm up to date.
9 Mr. Jones.

10 COMMITTEE MEMBER JONES: Evan Edgar and Chuck
11 Helget. I think that was it. All my other ones are
12 posted.

13 CHAIRPERSON PAPARIAN: And, Mr. Washington.

14 COMMITTEE MEMBER WASHINGTON: I'm up to date, Mr.
15 Chair.

16 CHAIRPERSON PAPARIAN: Great.

17 Just for a moment on scheduling for the day. As
18 you know, today's inauguration day for State
19 constitutional officers. And some of us do want to be at
20 some of the inauguration events. So what we're planning
21 to do is if we don't finish prior to 11:30, to take our
22 lunchbreak at round 11:30 and return by 1:30. So we'd
23 have a long lunchbreak for those who want to attend some
24 of the inauguration events that are occurring during the
25 lunch hour.

1 I'd like to thank the Permitting and Inspection
2 staff, especially, who worked through the holidays to get
3 revisions and comments compiled on the C&D regs.
4 Although, we're not going to be taking comments on those
5 regs today, the staff really did an incredible job to get
6 these things out during the holiday period, to be
7 responsive during the holiday period and to do the work
8 that really needed to be done.

9 And I understand, Mr. Walker, that one of your
10 staff had to even leave for another matter, had to leave
11 on Christmas Day to take care of, you know, some important
12 business in southern California on behalf of the Board.

13 ACTING DEPUTY DIRECTOR WALKER: I'll give a brief
14 Deputy Director report, which gets right into that.

15 CHAIRPERSON PAPARIAN: Okay. Before you do that,
16 we do have a small matter here; and, that is, that today's
17 the day for a vote on the Chairmanship of this Committee.
18 All the Committees -- as you may know, the committee
19 chairmanships are temporary assignments and periodically
20 come up for review. And this month the committee
21 chairmanships are coming up for review.

22 COMMITTEE MEMBER JONES: Mr. Chair?

23 CHAIRPERSON PAPARIAN: Mr. Jones.

24 COMMITTEE MEMBER JONES: I'll move that Mr.
25 Paparian stay as the Chair of the Permitting and

1 Enforcement Committee.

2 COMMITTEE MEMBER CANNELLA: Second.

3 COMMITTEE MEMBER WASHINGTON: Second.

4 CHAIRPERSON PAPARIAN: Well, thank you very much.

5 (Laughter.)

6 COMMITTEE MEMBER WASHINGTON: Did I hear two
7 seconds?

8 CHAIRPERSON PAPARIAN: I guess with that we
9 should just have a roll call.

10 SECRETARY KUMPULAINIEN: Cannella?

11 COMMITTEE MEMBER CANNELLA: Aye.

12 SECRETARY KUMPULAINIEN: Jones?

13 COMMITTEE MEMBER JONES: Aye.

14 SECRETARY KUMPULAINIEN: Paparian?

15 CHAIRPERSON PAPARIAN: Aye.

16 SECRETARY KUMPULAINIEN: Washington?

17 COMMITTEE MEMBER WASHINGTON: Aye.

18 COMMITTEE MEMBER JONES: You can vote for
19 yourself. It's all right.

20 COMMITTEE MEMBER CANNELLA: Can't be 3 to 1.

21 CHAIRPERSON PAPARIAN: Thank you very much. I've
22 enjoyed my time on this Committee and doing the work of
23 the Committee. And I'm looking forward to tackling more
24 issues in the coming months.

25 Mr. Walker.

1 ACTING DEPUTY DIRECTOR WALKER: Thank you.

2 Scott Walker, Acting Deputy Director, Permitting
3 and Enforcement Division.

4 And I have a short Deputy Director's Report. And
5 in this report I will provide an update on the worsening
6 Exotic Newcastle Disease outbreak in southern California,
7 and also our role and efforts in facilitating this
8 resolution.

9 Exotic Newcastle Disease is a very serious
10 contagious and often fatal disease that affects most
11 species of birds. There was an outbreak in the '70s that
12 threatened the entire U.S. poultry and egg supply industry
13 and caused nearly 12 million chickens to have to be
14 destroyed in California.

15 In October the disease was detected in backyard
16 flocks in Los Angeles. And a relatively small number of
17 birds, about 30,000, were subsequently destroyed. In
18 response the California Department of Food and Agriculture
19 CDFA, and the U.S. Department of Agriculture have an
20 extensive ongoing effort. And they also have local
21 command centers to fight the spread of the disease.

22 The spread of the disease to several commercial
23 flocks has recently been confirmed in California. So this
24 indicates a significant worsening of the disease. Over
25 one million birds are in the process of being destroyed

1 and disposed of. The areas affected include Los Angeles,
2 Orange, and San Diego Counties, and parts of Riverside and
3 San Bernardino Counties.

4 The primary method of managing the destroyed
5 birds and, if necessary, eggs is to haul them to solid
6 waste landfills for disposal. Although dead birds are
7 typically a normal part of the waste stream, the
8 quantities generated in this outbreak are enormous, and
9 this puts a tremendous strain on the State's solid waste
10 infrastructure. I don't know if you've had a chance to
11 see disposal of a truckload of these birds, but it's a
12 difficult handling issue to deal with.

13 The logistics also are difficult. And as a
14 result CDFA and Cal EPA have requested direct assistance
15 from the Board in helping make those arrangements. And
16 the Permitting and Enforcement Division, principally
17 Bernie Vlach and Bob Holmes, is providing the assistance
18 as requested.

19 Our role is to facilitate appropriate
20 arrangements and assistance with respect to solid waste
21 haulers, landfill operators, and local enforcement
22 agencies in all aspects of coordinating and helping set up
23 the hauling and disposal of the birds.

24 So far we have had tremendous cooperation from
25 everybody involved.

1 I would like to especially commend Bernie Vlach,
2 who flew down abruptly Christmas Day and stayed in to the
3 following Saturday to provide the requested on-site
4 presence at the command center. Much thanks goes to
5 Bernie for sacrificing part of his Christmas day to this
6 effort.

7 We will continue to provide assistance and
8 updates in responding to the Exotic Newcastle Disease
9 situation.

10 And if there are no further questions, I'll hand
11 it back to the Chair.

12 CHAIRPERSON PAPARIAN: Any questions?

13 COMMITTEE MEMBER WASHINGTON: Yes.

14 CHAIRPERSON PAPARIAN: Mr. Washington.

15 COMMITTEE MEMBER WASHINGTON: Mr. Walker, give me
16 the number again of how many chickens we're talking about
17 thus far. Twelve thousand?

18 ACTING DEPUTY DIRECTOR WALKER: Right now there's
19 on the order of -- there's over a million that are in the
20 process of being destroyed and disposed of.

21 COMMITTEE MEMBER WASHINGTON: How many have been
22 destroyed already?

23 ACTING DEPUTY DIRECTOR WALKER: Previously there
24 was about 30,000. And they're in the process right now,
25 so they're destroying them and hauling them, and they're

1 in various stages of that right now.

2 COMMITTEE MEMBER WASHINGTON: Briefly give me a
3 description as to what's the process? You could do it in
4 short form in terms of how they move the chickens from one
5 place. Because it's my understanding that it's a real
6 problem down in San Bernardino County. And what's the
7 process of moving those chickens and where to move them
8 to?

9 ACTING DEPUTY DIRECTOR WALKER: Well, they have
10 to make the arrangements, first thing, with the landfill
11 operator, the hauler, get the contract hauler in place
12 that has the appropriate equipment trucks. And they have
13 these lined boxes that they're using for their trucks that
14 seal the birds. And so they have to make the arrangements
15 at the particular commercial operation and to coordinate
16 the trucks that are there with the actual bird -- you
17 know, they pull the birds out of the cage and they use CO2
18 gas in the various options to destroy them.

19 So they have to seal these trucks up, and then
20 they haul them to the landfill. And the landfill -- they
21 have to make sure that it is appropriate for the landfill
22 to take the birds. And they normally will have a separate
23 area out from the typical working place. And they have to
24 bury these in the fill area in a lined cell and cover them
25 up immediately.

1 COMMITTEE MEMBER WASHINGTON: And who's the
2 leading authority? Would it be the County of San
3 Bernardino which would be the leading authority on this?

4 ACTING DEPUTY DIRECTOR WALKER: In San
5 Bernardino's case the County Solid Waste Local Enforcement
6 Agencies, which is within the Environmental Health
7 Department.

8 COMMITTEE MEMBER WASHINGTON: Thank you.

9 CHAIRPERSON PAPARIAN: Thank any.
10 Any other questions?

11 Mr. Jones.

12 COMMITTEE MEMBER JONES: Mr. Chair, just one
13 thing. Bernie Vlach I think has what, 6 kids, 5 kids, 8
14 kids? He's got a lot of kids.

15 (Laughter.)

16 ACTING DEPUTY DIRECTOR WALKER: Yeah, around that
17 number.

18 COMMITTEE MEMBER JONES: For him to leave
19 Christmas Day -- just so that the members who weren't here
20 know, that when Tracy hit, it hit in the afternoon. The
21 Board actually had a function that was going on. I tried
22 to get in touch with a lot of people, and couldn't get in
23 touch with anybody, and got in touch with Bernie. Bernie
24 went on site that night -- or that afternoon -- and Cody
25 Begley, and spent the -- they were our representatives at

1 that fire providing that assistance within an hour or so
2 after that Tracy fire started.

3 So because of the way that Board members are new
4 to some of these specifics, I wanted Bernie to get that --
5 for the members to know that this isn't the first time
6 that he's had to jump in the middle of something. So it
7 is appreciated.

8 CHAIRPERSON PAPARIAN: I think maybe at an
9 appropriate time when he's present we can give him some
10 personal thanks too.

11 Okay. We have several permits and other items on
12 the agenda today. So you want to just jump right in?

13 I think the first one is the Bradley permit.

14 ACTING DEPUTY DIRECTOR WALKER: I think there was
15 one request we wanted to discuss with you perhaps. It was
16 a request to move the Sunset, the second permit, before
17 Bradley. There was a request to do that. So we would
18 just suggest that perhaps to the Board.

19 CHAIRPERSON PAPARIAN: Okay. No problem.

20 ACTING DEPUTY DIRECTOR WALKER: I think those
21 folks had some appointments that they needed to get to.

22 CHAIRPERSON PAPARIAN: Okay.

23 ACTING DEPUTY DIRECTOR WALKER: Item E is
24 consideration of a new full solid waste facilities permit
25 (transfer processing station) for the Sunset Wastepaper

1 Material Recovery Facility and Transfer Station, Fresno
2 County. This is January Board Item Number 39.

3 And Virginia Rosales will give the staff
4 presentation.

5 MS. ROSALES: Good morning, Committee members.

6 The facility is located in the City of Fresno,
7 privately owned and operated by Sunset Waste Holdings.

8 Currently the facility provides recycling
9 services under contract with the City of Fresno to accept
10 residential commingled recyclables and source-separated
11 recycles from the City of Fresno waste stream. The
12 recyclable materials are brought to the facility by the
13 City of Fresno solid waste collection vehicles.

14 In late 2001 to early 2002 the LEA discovered the
15 facility had a residual of nonrecyclables above the 10
16 percent regulatory limit. The LEA issued a cease and
17 desist order in February 2002, which in summary allowed
18 the operation to continue providing service and the
19 operator did the following: A) Immediately take steps to
20 obtain the proper land use entitlements from the City of
21 Fresno; and B) obtain a solid waste facilities permit by
22 March 27th, 2003.

23 Additionally, the LEA required that the facility
24 maintain compliance with regulatory transfer processing
25 standards and not accept any material that would cause the

1 residual nonrecyclable waste level to increase above the
2 initial reported level of 26 percent.

3 In June 2002 the operator submitted an
4 application for a new solid waste facilities permit, but
5 it was rejected by the LEA in July, as there was -- the
6 conformance finding information was missing.

7 Finally, the City of Fresno amended the
8 Nondisposal Facility Element, or the NDFE, by identifying
9 and describing the Sunset facility. The Board at the
10 November 2000 meeting approved this amendment.

11 In September 2002 the operator resubmitted the
12 application for a new solid waste facilities permit. In
13 working with Board staff, the LEA accepted the application
14 as incomplete in October of 2002 to allow time for the
15 NDFE amendments to be approved by the Board. The LEA
16 continued to work with Board staff and submitted the
17 proposed permit package in December 2002.

18 The proposed permit will allow for receipt of
19 sorting, processing of municipal solid waste and
20 recyclable materials up to 2,000 tons per day operating 24
21 hours a day, 7 days a week, in a permitted area of 10
22 acres. The facility will be closed on major holidays.

23 The proposed facility's design includes the
24 following major components: The material recovery
25 facility, the transfer station, scale house and scales,

1 vehicle and vehicle maintenance building, and an office
2 and visitors' center.

3 The facility serves the City of Fresno as well as
4 other cities in unincorporated areas in Fresno, Kern,
5 Kings, Tulare, and Merced counties.

6 Board staff has determined that all the
7 requirements for the proposed permit have been satisfied.
8 In conclusion, staff would recommend the Board adopt
9 Resolution Number 2003-34 and concur in the issuance of
10 Solid Waste Facilities Permit 10-AA-018A.

11 This concludes staff's presentation. Chip
12 Clements representing the operator and Hank Gill, the LEA,
13 are also present here today.

14 CHAIRPERSON PAPARIAN: I had a couple questions.
15 But before I do, I want to see if other members have
16 questions.

17 Mr. Cannella?

18 COMMITTEE MEMBER CANNELLA: Yeah, I'm just
19 curious about the cease and desist. You issued a cease
20 and desist order. What did that really mean? To me a
21 cease and desist means you stop. You don't continue to
22 operate. But as you just said, that you issued a cease
23 and desist but then allowed them to continue to operate.
24 I don't have any questions about the information you
25 provided. I am curious about what a cease and desist

1 order means.

2 ACTING DEPUTY DIRECTOR WALKER: Maybe I'll try to
3 start that and see if Kathryn or Mark would pipe in on
4 that.

5 But cease and desist order is an enforcement
6 option that is used. And in the specific statutory
7 requirement, a cease and desist order has certain
8 restrictions whereby a facility that's not operating with
9 a permit, it's required to have a permit, needs to be
10 issued a cease and desist order. And that cease and
11 desist order is required to have -- there's two parts in
12 terms of the date.

13 And I think probably I'd shift to Mark on this in
14 that we're talking about the cease and desist orders, what
15 they are, and in this particular case how they were
16 applied.

17 MR. de BIE: Okay. And I understand Member
18 Cannella was asking the question.

19 If you look at the statute, there's two main
20 references to cease and desist. And one indicates that
21 it's the LEAs option to write a cease and desist with a
22 compliance schedule. So come in to -- or stop operating
23 or stop that part of your operation, date certain. There
24 is the statute that says if you're operating without a
25 permit, it's an immediate cease and desist.

1 COMMITTEE MEMBER CANNELLA: And they were
2 operating without a permit, were they not?

3 MR. de BIE: They started operating as a
4 recycling center. The LEA came in, found that you don't
5 actually qualify because you had the high residual, wrote
6 an order that said either stop that part of your operation
7 that puts you over 10 percent or get your solid waste
8 facility permit. The operator chose to go down the path
9 to get the permit. They immediately started the local
10 process and the State process to get that permit.

11 COMMITTEE MEMBER CANNELLA: So did they stop
12 exceeding the 10-percent residual?

13 MR. de BIE: They stopped going beyond the 26
14 percent that they were found, but they did not change
15 operations. And the reason why they were unable to change
16 the operations to the extent where they could get down
17 below 10 percent is because of the waste stream they
18 received. This is primarily commingled recyclables,
19 curbside recyclables that were coming in. The program
20 that was set up was such that it could not assure that the
21 materials coming in were low in contaminants. So they
22 were receiving a waste stream that was source separated,
23 but it couldn't -- they couldn't achieve the 10 percent in
24 terms of residual levels.

25 COMMITTEE MEMBER CANNELLA: Was that from the

1 very first day that happened.

2 MR. de BIE: You know, it took a while for the
3 LEA to come in and investigate and look at records, But
4 there is an indication that, you know, they weren't --
5 because of the waste stream contaminants they weren't able
6 to achieve the 10 percent.

7 COMMITTEE MEMBER CANNELLA: Okay. So a cease and
8 desist order allows for some flexibility to come into
9 compliance, gives them a reasonable amount of time to
10 either abate what they were doing or apply for a permit
11 that would allow that to continue?

12 MR. de BIE: In this case that path was chosen.
13 Certainly another point of view is if you need a permit
14 and you don't have one, you put the chain across the gate
15 and you stop.

16 If this were to occur there would have been
17 really no place for this curbside to go. That program
18 would have, you know, frozen up. Certainly other entities
19 might have been able to absorb that activity, but it
20 wouldn't have been immediate. So I think the LEA did
21 weigh the potential issues associated with this and not
22 just go strictly by the requirement.

23 COMMITTEE MEMBER CANNELLA: Okay. Because it's
24 just interesting to draw the parallel between C&D waste
25 that we're talking about putting a stop to.

1 MR. de BIE: And staff is aware of that. And I
2 think with C&D we see the scenario a little bit
3 differently. The operator does have more control over the
4 waste stream coming in because they set up those
5 contracts. It's not an independent -- it's not the City,
6 for example, setting up the contract.

7 COMMITTEE MEMBER CANNELLA: I understand that.
8 But the flexibility appears to be available to staff and
9 the Board on all issues, not just this one?

10 MR. de BIE: At times, yes. Case by case, yes.

11 CHAIRPERSON PAPARIAN: Mr. Washington.

12 COMMITTEE MEMBER WASHINGTON: Just for
13 clarification. So cease and desist does not mean stop?

14 MR. de BIE: Depending on the situation you're
15 in. If you're operating without a permit, you can read
16 the statutes that say, yes, definitely you need to stop.
17 If you're doing something in your operation that needs to
18 cease, but it's not permit related, there is flexibility
19 to allow a compliance schedule some time to cease that
20 operation. It's not -- yes. So there is some flexibility
21 depending on the situation.

22 CHAIRPERSON PAPARIAN: I'm a little bit concerned
23 about this from a couple of levels. One is that if you
24 look for consistency of enforcement activities in the
25 environmental arena, I think a cease and desist order at

1 the Air Resources Board or the Water Board would mean
2 "stop." And if you don't, typically they fine at a fairly
3 high level, many thousands of dollars a day for operating
4 beyond the date of the cease and desist order.

5 I think also for consistency within our own -- in
6 the waste area, kind of what this permit seems to indicate
7 to me is that if you get a cease and desist order and then
8 say, "We're going to go and try to get a permit" sometime
9 in the future, you know, to correct this, that you can
10 continue to operate even though you have the cease and
11 desist order. It's a little bit troubling to me. I don't
12 know if counsel wants to explain the difference between a
13 cease and desist order that means stop and a cease and
14 desist order that means it's okay to continue.

15 CHIEF COUNSEL TOBIAS: I think that the --
16 actually that the statute from the State's side of it is
17 fairly clear. And in 45005 a cease and desist order is a
18 cease and desist order and it means stop doing it.

19 It basically says that any person operating or
20 who proposes to operate a solid waste facility or who is
21 disposing of solid waste in an unauthorized manner or who
22 owns a solid waste facility and causes or permits the
23 operator to operate the facility in violation of the
24 permit or in violation of the division or any regulation
25 or without a solid waste facilities permit or in a manner

1 that causes or threatens to cause a condition of hazard,
2 pollution or nuisance shall -- not may -- upon order of
3 the enforcement agency cease and desist any improper
4 action.

5 So I think that in the abstract -- and I think
6 staff has addressed, you know, what happened accurately in
7 this particular situation with this LEA -- that, you know,
8 the State statute basically says that it is not a question
9 of what happens to garbage in the streets or what happens
10 to a program or whatever. It says that you may not do
11 that. So that's what the State law says.

12 CHAIRPERSON PAPARIAN: And then there's the
13 option to fine. But we don't have any clear guidance on
14 fines if there's a cease and desist order that's violated?

15 CHIEF COUNSEL TOBIAS: Well, actually I think
16 that the Board could fine. But this one's a little bit
17 difficult just in the sense of how long ago this took
18 place. But actually the Board can set up fines, and we
19 could certainly take that up. I think the intention in
20 this case is to take it up in the LEA evaluation process
21 and basically look at whether the LEA took the correct
22 action at that time. But actually I do think that the
23 Board could set up the situation to basically look at the
24 situation and set up a fine if they feel that the
25 statute's been violated.

1 CHAIRPERSON PAPARIAN: I'm thinking more for the
2 future of providing some guidance in situations like this,
3 as we have in the tire area. In fact we have some -- I
4 think we're voting on some stuff --

5 CHIEF COUNSEL TOBIAS: Oh, the penalties --

6 CHAIRPERSON PAPARIAN: -- this month, where the
7 penalties are very clearly laid out. And maybe we might
8 need some clearer guidance there.

9 Just one more bit of information. The waste
10 stream coming into this facility is mostly the municipal
11 waste stream, or the recyclable stream, curbside --

12 MR. de BIE: Right, curbside, currently that's
13 the waste stream. With this permit they will become a
14 transfer station in addition to the MERF. So they will be
15 able to receive municipal solid waste after -- with this
16 permit. But so far they've only received the curbside.

17 CHAIRPERSON PAPARIAN: Okay. And it's from the
18 City or from the County, or from both?

19 MR. de BIE: I believe it's from the City -- city
20 contract.

21 And there were some questions about --

22 CHAIRPERSON PAPARIAN: Okay. And so it's not --
23 Okay. If it's from the City, the LEA is the County LEA in
24 this --

25 MR. de BIE: Then there is no city LEA.

1 CHAIRPERSON PAPARIAN: There is no city LEA,
2 okay. So that concern is --

3 MR. de BIE: And there were some questions about
4 whether or not other types of waste had been received from
5 this site, and so we did look into that. And it was
6 reported that on occasion the operator would accept
7 source-separated recyclable materials at the site. For
8 example, someone might come in with a load of cardboard,
9 and they would receive that. So they were taking in other
10 waste streams other than the curbside. But as far as we
11 know they were not receiving any waste other than the
12 source-separated materials similar to what they were
13 collecting on the curb.

14 CHAIRPERSON PAPARIAN: Okay. Mr. Jones.

15 COMMITTEE MEMBER JONES: Mr. Paparian, I've got a
16 little different slant on this thing.

17 And I think we're going down a dangerous slope
18 when we sit there and we just say automatically that any
19 violation that could have a cease and desist should have a
20 cease and desist, then you would put the chains up.

21 You've seen gas at landfills where they could do
22 a cease and desist or notice and order. That takes time
23 to tune up a gas system or even install a gas system. So
24 I don't think it's as clear as counsel says it is, because
25 I think it says that if the LEA chooses to, they shall.

1 And I think that clearly the authority is with the LEA.

2 But in the case of Sunrise, as I understand it,
3 the bid from the City -- the City was looking at doing a
4 curbside recycling program, which they assume is not going
5 to have very much residual waste in it, that it's going to
6 be a source-separated, clean, recyclable material. I
7 don't know the particulars, but I would assume that went
8 out to bid and different people bid to be the operator
9 there.

10 You're not in violation of any statute in the
11 State of California that I am aware of if you operate that
12 recycling facility with less than 10 percent. So there is
13 an assumption made that when the City put this program
14 together, they were assuming that they would have a
15 material stream that was less than 10 percent. It was
16 only after the activity takes place that they find that
17 the residual is higher.

18 Normally, in a curbside program that residual is
19 contaminated paper that they can't put into a system,
20 which is either wet or screwed up so that that's heavy,
21 and glass, especially shards, I mean heavy shards. And
22 it's pretty amazing that such a light system of curbside
23 would have a 10-percent residual, which I think it's
24 appropriate, where the residual is heavy. And yet when we
25 talk about C&D, we have dirt, rock and concrete coming in

1 and people are crying that they can't meet 20 percent when
2 that 20 percent should be paper.

3 You know, you flipped it exactly around.

4 But, anyway, they go into a system and they
5 invest the money to put in a processor, put in a building
6 on the assumption that the waste stream is going to be
7 less than 10 percent. It turns out that it isn't less
8 than 10 percent, and so they start an appropriate action,
9 which is to get a permit. But that's only an action that
10 happens after they have determined.

11 So for us to say put a chain across the door
12 means that you've stranded the investment, you've stranded
13 the people's right to participate in a curbside program,
14 because the residual. What needs to happen and we need to
15 be thinking about is wherever those kind of issues come up
16 where the residual starts going up, we need to make it
17 incumbent on the City to start sending out fliers to
18 residents that their stuff is contaminated and that it's
19 got too high of a residual. That's what we need to be
20 talking about. Because the City does it in good faith,
21 the operator does it in good faith. And the citizens,
22 either through education or not education, contaminate
23 that waste stream that should come in reasonably clean.

24 So I think we need to have flexibility when it
25 comes to cease and desist orders. I think the LEA did the

1 absolute appropriate thing, because they said, "You've got
2 to start getting a permit immediately or we'll shut you
3 down." That's when you shut them down.

4 If the operator chooses not to comply with that
5 schedule -- because the cease and desist will have a
6 schedule with time, certain activities. When they don't
7 do that, then shut them down. But I think until that time
8 we need to think about it. Otherwise you're going the
9 strand -- you're going to strand \$2 - \$3 million in
10 equipment because the citizens throw out more stuff than
11 they thought. I mean we need to be careful about how we
12 look at those types of activities, I think.

13 CHAIRPERSON PAPARIAN: Yeah, I mean to me -- the
14 words "cease and desist" mean something to me, and I think
15 to almost every other agency they mean something, which --
16 and, you know, if there's a situation that is not cease
17 and desist, maybe we shouldn't be calling it cease and
18 desist. But I think that the law is pretty clear on what
19 should happen if there is a cease and desist order.

20 CHIEF COUNSEL TOBIAS: I think that's right. I
21 think Mr. Jones was correct when he said -- when he gave
22 the example about the gas, because our regulations do
23 allow for a situation with gas where they do go into a
24 compliance order situation. And that's why we have those
25 regulations.

1 I was responding to the question on cease and
2 desist, not specifically to this particular situation
3 because I still don't know all the facts. This hasn't
4 come before us except as it's been related to me by staff.
5 So I'm not taking an opinion on this particular situation.
6 I am saying that I do think a cease and desist does mean
7 to stop that activity, you know, at the time that it's
8 found that they are violating this statute.

9 I do think that there might have been a situation
10 here where the wrong order was issued. And I think we had
11 that situation once before in Marin where we had somebody
12 issue a cease and desist which, when we actually looked at
13 the actual language, ended up not being a cease and desist
14 letter.

15 So I think part of it here is to, you know -- and
16 we have ongoing training with our LEAs to make sure that
17 when they are taking an action, that it's not only titled
18 correctly and thought out correctly, but, you know, takes
19 the appropriate action. But I do think that, like other
20 state agencies, we do have a very similar provision in our
21 statutes which basically says if you're operating outside
22 a permit, you're outside your permit conditions or without
23 a permit, that you may not continue to do that.

24 COMMITTEE MEMBER WASHINGTON: Mr. Chair.

25 CHAIRPERSON PAPARIAN: Yes, Mr Washington.

1 COMMITTEE MEMBER WASHINGTON: I have a question.

2 In terms of issuing a cease and desist order,
3 can't the LEA or whatever local governance who issues
4 those cease and desist orders where Mr. Jones just talked
5 about, can't that be taken care of prior to issuance of
6 the cease and desist order? You understand my question.

7 Yeah, like a notice or something. Because I too,
8 I'm like the Chair, I believe that the cease and desist
9 orders means exactly what it says. As a legislator we had
10 to deal with this issue several times in my term in the
11 Assembly. And I know that this issue of cease and desist
12 came up a couple of times. And it was the opinion of the
13 Legislature that cease and desist means stop. And so I
14 believe that there should be some type of way that this
15 issue is covered where it meets for everyone to abide by
16 the same policy as it relates to cease and desist orders.

17 And, Mr. Walker, do you have any comments on
18 that?

19 ACTING DEPUTY DIRECTOR WALKER: I was going to
20 comment that, one of the things to bring up is that the
21 Board adopted enforcement regulations relatively recently,
22 a little over a year ago. And so we had gone through a
23 process to relook at our whole regulations for issuing
24 orders of what's required to be in there. And so we're
25 still in the mode of implementation, initial

1 implementation.

2 What we do and what provides a forum for us to
3 look at the whole of how we issue these orders and whether
4 or not in this case, as Board Member Washington brought
5 up, the notice -- kind of almost like a notice and order
6 versus the cease and desist order, whether it would have
7 been more appropriate, is that we are -- we also, as
8 directed by the Board, will come back periodically on --
9 we did I think in October whereby every order that's
10 issued by an LEAs required to be submitted to us. And
11 what we do is we update the Board every quarter to six
12 months on all of the enforcement orders issued. And it
13 also gives us a chance to revisit the enforcement regs and
14 to look at, "Are we issuing these orders appropriately?
15 Have we given appropriate guidance to LEAs?"

16 And so I would suggest that maybe -- we are
17 planning I think now in probably March or April to come
18 back with the next update. And I think we could probably
19 more fully look into this issue for the Board and, you
20 know, kind of go back into, you know, the cease and desist
21 order, because I don't think there have been very many
22 cease and desist orders issued. But if we're not doing it
23 right, I think we need to adjust. And that would be a way
24 for us to deliberate on it and then get the direction
25 clearer.

1 COMMITTEE MEMBER WASHINGTON: Certainly for me,
2 Mr. Chair, for the sake of consistency -- and I can
3 certainly see Pandora's box opening here where one agency
4 issues a cease and desist order meaning that you can
5 operate until you meet these requirements at another time,
6 someone else would come to the Committee and say, "Well,
7 you issued one telling me to stop." And, you know, for
8 consistency's sake I just believe that cease and desist
9 should mean what it means, and that's stop.

10 CHAIRPERSON PAPARIAN: Yeah. And I agree with
11 that. Again, I'm worried about the precedent elsewhere,
12 that we could have somebody coming in without a permit
13 with 30, 35 percent residual, or maybe the LEA can't even
14 determine that, they get a cease and desist order, and
15 they're able to then say, "Well, look, in Fresno you guys
16 let that person continue for many, many months while they
17 tried to get a permit." That's, you know --

18 COMMITTEE MEMBER JONES: Mr. Chair.

19 CHAIRPERSON PAPARIAN: Mr. Jones.

20 We do have the LEA from Fresno who'd like to make
21 a few comments. Want to hear those first?

22 Harnak Gill, the LEA from Fresno.

23 Mr. Gill.

24 MR. GILL: Good morning, Mr. Chairman, members of
25 the Board.

1 Yeah, I wanted to specifically address why we
2 chose a cease and desist as far as one of the notices and
3 the route we took on that. The reason being was, in the
4 cease and desist under Title 14, Section 18304.1, under
5 Section 2, it says, "A cease and desist order must be put
6 in place by a specific date." Since this facility was not
7 a permitted facility, we put some restrictions on by
8 setting up specific dates that they must meet in order to
9 get this permit. Because the order does allow them to
10 operate under a "cease and desist" with specific dates set
11 in place.

12 So two dates were set in place, the first date
13 being if just a regular Neg Dec or a mitigated Neg Dec was
14 to take place. So that's where we have the earlier date
15 of October 24th, 2003. And if it was a later process --
16 you know, that was the specific reason why the two dates
17 were put in there, if they needed to go through the EIR
18 process.

19 So, yes, we did look at, you know, the different
20 types of orders. We did consult with Board staff here
21 also. And that was the reason we chose a cease and
22 desist, because it did give the options, since the site
23 was not a permitted site, that was -- rather than, as Mr.
24 Jones mentioned earlier, rather than just closing the
25 doors and not letting anything come through the facility,

1 here was an order that allowed us to work and work with
2 the operator, which the operator did from day one when we
3 first contacted them to put all the pieces together to
4 bring it to this stage.

5 In addition to that, the cease and desist order
6 does have penalties if these dates were not met -- you
7 know, the basic standard verbiage, that \$10,000 per day,
8 that was all put in there. It was specifically explained
9 to the operators and the owners that these dates must be
10 met.

11 I just wanted to make it clear, they are two
12 months ahead of schedule, as we are speaking in front of
13 the Board today, for this permit.

14 CHAIRPERSON PAPARIAN: Okay. I should perhaps
15 make -- based on what I've heard and what I've heard from
16 the staff about the advice they were giving to the LEA, it
17 appears to me, just on what I've heard today, that the LEA
18 was doing a good job based on the information the LEA had
19 and the advice you were getting from staff.

20 I think that the issues that we've been talking
21 about the last few minutes are broader issues that we want
22 to delve into that this permit has brought up. But it's
23 not a reflection at this point on the work that you're
24 doing. It's that this permit has brought up issues
25 involving the cease and desist order that we may want to

1 explore given where we would like to be with cease and
2 desist orders.

3 COMMITTEE MEMBER WASHINGTON: I agree, Mr. Chair.
4 And, as wise, I'd like to make the same comment to the
5 Sunset Waste Hauling, that our comments are not reflected
6 on what you did. It's to make sure that we have some
7 consistency within the agency itself.

8 MR. GILL: Thank you.

9 CHAIRPERSON PAPARIAN: Mr. Jones.

10 COMMITTEE MEMBER JONES: You know, I think it --
11 I'm glad to hear what you just said, because I get real
12 nervous when we make a presentation and it's controversial
13 and right away staff is saying, you know, the LEA should
14 be evaluated. I've heard it before and it makes me
15 absolutely nuts, because -- and it's always amazing when
16 the LEA comes up and testifies and says they followed
17 Board staff recommendations, and yet we're sitting as part
18 of the presentation saying, "We ought to evaluate the
19 LEA." I guess that's Partnership 2001, 2 and 3.

20 I will say though, I don't want my comments about
21 a curbside recycling center to be construed as differently
22 than -- that curbside facility, one -- some kind of an
23 open bid, I'm assuming. It's very different than somebody
24 where there's 10 facilities out going -- and it's going to
25 be the issue with the C&D because I made it very clear

1 that under AB 59, if you're breaking those rules, you
2 should be shut down. That's a very different set of
3 circumstances because out there, they're out looking for a
4 waste stream and can play, not by the rules, but by
5 whatever rules they choose to go by. And at that point
6 it's very different.

7 Any facility, I don't care if it's a Waste
8 Management facility, Sunset, NorCal, BFI, Joe Schmo
9 Recycling, when they get a contract to build a facility to
10 process curbside recycling, it's based on an audit that
11 the City is telling the operator, "You're going to have
12 less than 10 percent residual." It's a very different set
13 of circumstances than going out into the curbside open
14 market. And we need to be aware of that when we're
15 talking about what's the appropriate thing. Because those
16 C&D sites should have a chain put across them when they
17 break the rules.

18 But somebody that spends 2 or \$3 million to
19 accommodate curbside and the waste stream the citizens are
20 throwing away is contaminate, then we need to have a
21 mechanism that we get in touch with the City and put the
22 burden on the City to go out and notify those citizens of
23 what belongs in that bin and what doesn't. It's a very,
24 very different set of circumstances.

25 CHAIRPERSON PAPARIAN: It sounds like we've got a

1 lot to chew on here. And I'll suggest that I'll work with
2 staff over the next, you know, couple of months and see
3 what form we can bring this back to the Committee for some
4 further discussion and direction.

5 ACTING DEPUTY DIRECTOR WALKER: One option, as I
6 alluded to before, is we are currently scheduled in March
7 to come back with our next report on all enforcement
8 orders issued. What we can do is we can have an expanded
9 analysis and consult with our legal staff to report back
10 on the issue of cease and desist orders and their
11 appropriate application. And then that may actually
12 trigger more policy follow-up from that item, depending
13 upon the Board's deliberation on that.

14 CHAIRPERSON PAPARIAN: Okay.

15 ACTING DEPUTY DIRECTOR WALKER: But that would be
16 a way that we can actually get in -- really get into the
17 guts of that issue. And also at the same time, because
18 it's such a -- like you mentioned, such a broad, you know,
19 aspect, enforcement. It allows us to tie it in with the
20 rest of the different options of enforcement and
21 whether -- which ones are appropriate.

22 CHAIRPERSON PAPARIAN: Good. That sounds like a
23 good direction.

24 Mr. Cannella had something.

25 COMMITTEE MEMBER CANNELLA: Just nothing to do

1 with the Sunset permit that's before us this morning. But
2 following along the lines that you were talking about, the
3 discussion and report back. It was -- I understand that
4 the Sunset operators received a violation for every month
5 from March to December.

6 In the discussion, would you explain what that
7 means, what that involved? I mean you don't have to do it
8 now, because I don't want to get into the issue that
9 really isn't relevant to this particular item. But in the
10 months to come and in the discussions about what cease and
11 desist means and all that, I would like to include, when
12 you order-- when you give a cease and desist and they are
13 in violation and they're issued a violation every month,
14 what does that mean?

15 ACTING DEPUTY DIRECTOR WALKER: We will do that.

16 COMMITTEE MEMBER JONES: Mr. Chair.

17 CHAIRPERSON PAPARIAN: Mr. Jones -- Oh, I'm
18 sorry. I want to ask one more quick question on this
19 specific permit, if that's all right.

20 The facility operates 24-7, and the staff report
21 indicates there's 20 homes in the vicinity.

22 Have there been any complaints or issues raised
23 by the neighbors of the facility that we're aware of?

24 MS. ROSALES: No. When we conducted our
25 pre-permit inspection, that was a question that was asked.

1 And the operator indicated they have had no complaints.

2 CHAIRPERSON PAPARIAN: Okay. Mr. Jones.

3 COMMITTEE MEMBER JONES: Mr. Chair, I'll move
4 adoption of Resolution 2003-34, the consideration of a new
5 full solid waste facility permit for the Sunset Wastepaper
6 Material Recovery Facility and Transfer Station in Fresno,
7 County.

8 COMMITTEE MEMBER WASHINGTON: Second.

9 CHAIRPERSON PAPARIAN: Okay. There's been a
10 motion and a second.

11 Secretary, call the roll?

12 SECRETARY KUMPULAINIEN: Cannella?

13 COMMITTEE MEMBER CANNELLA: Aye.

14 SECRETARY KUMPULAINIEN: Jones?

15 COMMITTEE MEMBER JONES: Aye.

16 SECRETARY KUMPULAINIEN: Paparian?

17 CHAIRPERSON PAPARIAN: Aye.

18 SECRETARY KUMPULAINIEN: Washington?

19 COMMITTEE MEMBER WASHINGTON: Aye.

20 COMMITTEE MEMBER JONES: Mr. Chair?

21 CHAIRPERSON PAPARIAN: Mr. Jones.

22 COMMITTEE MEMBER JONES: Is this appropriate to
23 put on consent?

24 CHAIRPERSON PAPARIAN: Yes, if there's no
25 objection.

1 Okay. We'll go back to the Bradley item?

2 ACTING DEPUTY DIRECTOR WALKER: Correct.

3 Item D is consideration of a revised full solid
4 waste facilities permit disposal facility for Bradley
5 Landfill West and West Extension, Los Angeles County. And
6 this is January Board item 38.

7 Mark de Bie and Bill Marciniak will cover the
8 staff presentation.

9 MR. MARCINIAK: Good morning, Board members.

10 The Bradley Landfill West and West Extension is
11 owned and operated by Waste Management Recycling and
12 Disposal Service of California, Incorporated, and is
13 located in the community of Sun Valley in Los Angeles
14 City.

15 The proposed permit will provide for a correction
16 to the disposal acreage from 136.5 to 126 acres, as well
17 as a correction in total acreage from 136.5 to 156 acres.

18 That'd be a correction of the maximum permitted
19 elevation from 1,000 to 1,010 feet and an updating of the
20 estimated year of closure from the Year 2000 to 2007. And
21 it will include a permitted capacity of approximately 3.3
22 million cubic yards above what is currently described in
23 the permit document.

24 We need to correct the agenda item on page 38.3
25 in the first half -- the first bullet under Key Issues, it

1 states that the generator will notify neighbors within 100
2 feet. This should read 200 feet.

3 This RDSI is dated -- The RDSI is dated August
4 2002. For this proposed permit contains the provision for
5 notification of residences and businesses where landfill
6 gas exceedance of more than 5 percent occurs at the
7 perimeter if the structure is located within 200 feet of
8 the probe.

9 By concurring in this permit the August 2002 RDSI
10 will become the governing RDSI and the LEA will be
11 monitoring this provision.

12 The current copy of the agenda item had mentioned
13 that staff would provide a recommendation at the Committee
14 meeting. But because staff had not yet completed the
15 review of the financial assurance documentation and review
16 of the report of facility information, it made a
17 determination in compliance with state minimum standards
18 and we were waiting for a final finding from the LEA.

19 The LEA has since provided the required
20 information and certified that the application package is
21 complete and correct and the report of facility
22 information meets the requirements of California Code of
23 Regulations and the LEA has determined that this permit
24 revision is supported by existing California Environmental
25 Quality Act analysis.

1 I have also been informed early this morning that
2 the operator has provided the required financial assurance
3 documentation. And board staff have also determined that
4 the report of facility information is adequate.

5 Regarding compliance with state minimum
6 standards, Board staff conducted inspection on December
7 19th, 2002, and found no violation of state minimum
8 standards. To where it is a concern for these state
9 minimum standards were observed and PRC violations for
10 significant change and solid waste facility per terms and
11 conditions are still documented, issuance of this proposed
12 permit will correct the PRC violations.

13 At this point I would like to turn the
14 presentation over to Mark de Bie, and he'll be concluding
15 with the CEQA analysis and the final recommendation.

16 MR. de BIE: Thank you, Bill.

17 I asked Bill to let me cover the CEQA aspect of
18 this because there's a long history associated with
19 staff's involvement on this project relative to the
20 description of the project and the CEQA compliance.

21 Board staff and the LEA as well as the operator
22 have been discussing this project since early 2001. A lot
23 of time was spent by all parties in explaining and
24 understanding the previous environmental review and
25 approvals by both local and previous revisions to the

1 solid waste facility permit, as well as specific limits
2 and restrictions for the site.

3 As indicated on page 5 and 6 of the agenda item,
4 there have been at least seven CEQA documents developed
5 for this site since 1974, with at least as many local and
6 state approvals associated with them. There was a need to
7 review and find consistency with all the documentation and
8 activities covered by the proposed permit.

9 Issues relative to the landfill's tonnage limit,
10 height, the side slopes, disposal footprint, permitted
11 boundary, total and existing capacity were all discussed,
12 again with the LEA and operator; as well as issues
13 relative to the relationship between Bradley East and the
14 activities taking place there under a separate permit.

15 Basically Bradley West, West extension, and
16 Bradley East share a common border. And there needed to
17 be some further refinement on what was being assigned to
18 Bradley East and what was being assigned to Bradley West.
19 Each issue was reviewed and discussed in detail.
20 Eventually a common understanding of the existing baseline
21 was established.

22 It was determined that the landfill height,
23 disposal acreage and total site acreage were not correctly
24 noted in the current solid waste facility permit. It
25 should be noted that since at least 1998 the local land

1 use approvals have allowed all of the current and proposed
2 changes addressed in the solid waste facility permit.

3 The landfill height noted in the current solid
4 waste facility permit does not match that that was
5 reviewed in CEQA and in the approval made by the City
6 planning department in 1996, and does not allow for a
7 final fill configuration that would allow for effective
8 top-deck drainage controls. When this was found to be
9 true, the LEA started the process to align the solid waste
10 facility permit with the appropriate CEQA documents and
11 the local approvals.

12 It was not the intent of the LEA to have the
13 solid waste facility permit be more restrictive than the
14 local approvals relative to height.

15 The reduction in disposal area is a result of
16 clarification of the use of the southern portion of the
17 site to be used as a drainage basin and a future plan for
18 nondisposal-related activities there.

19 No municipal solid waste has been placed in the
20 area previously identified as part of the disposal acreage
21 and none will be allowed to be placed in that area once
22 the permit is approved and that area delineated as a
23 nondisposal area.

24 The increase in the total permitted acreage is a
25 result in better surveying at the site, clarification of

1 the specific boundary between the site and Bradley East,
2 and the inclusion of a so-called buffer area around the
3 site that should have been included previously, as they
4 contained structures associated with the landfill gas
5 monitoring probes and roads, et cetera, as well as the
6 reconfigured drainage basin to the south.

7 Relative to the site capacity, it was one of the
8 aspects that required a large amount of review and
9 discussion. The proposed regrade of the site does not
10 allow more waste to be placed within the disposal area
11 beyond that that was previously approved in the current
12 grading plan. The new plan achieves this by establishing
13 a configuration that works within the existing height
14 limits, but increases the steepness of the side slopes
15 while maintaining the existing overall average slope.

16 It is estimated that the new configuration would,
17 however, allow approximately .6 to 1 million cubic yards
18 of additional waste beyond what was previously reviewed
19 and approved for the whole of the site, including Bradley
20 East. It does this by shifting the fill configuration
21 from roughly the east and south portions of the whole
22 site, Bradley East and West inclusive, to the west
23 portions as well as the north area.

24 Staff closely examined this change to determine
25 if there were any potential significant new or potentially

1 more severe environmental impacts that could result from
2 the new configuration. Staff focused on problems that
3 could result from operations in this area, the potential
4 effects on landfill gas generation and migration, as well
5 as seismic slope stability issues.

6 Staff independently evaluated the gas generation
7 calculations and the gas control system to determine if it
8 was correct and adequate. Staff independently evaluated
9 slope stability calculations.

10 After much review and discussion, the consensus
11 among staff was that we could not determine that a new or
12 more severe potential environmental impact would result
13 from the regrade that had not been previously reviewed and
14 addressed by previous environmental review and approvals.

15 However, some of the staff still find that
16 additional documentation should have been done. And
17 certainly that was an option locally, either by the City
18 planning as well as the LEA or this Board.

19 However, again, the consensus of staff at this
20 time is that, based on advice from our environmental
21 review staff as well as consultation with Legal Office,
22 that the threshold to require additional documentation has
23 not been met in that substantial evidence relative to new
24 or more severe environmental impacts could not be
25 determined.

1 And, again, staff had thoroughly reviewed issues
2 relative to gas -- there's a known chronic situation of
3 gas -- as well as the slope issues and the associated --
4 potential impacts associated with operating in areas near
5 businesses and residents.

6 Staff's determination is consistent with that
7 made by the City planning department back in 1998 when
8 they looked at this regrade project as well as the LEAs
9 findings.

10 Staff have received several letters and E-mail
11 communications relative to this agenda item. Some of the
12 correspondence indicates objection to a vertical expansion
13 of the site. Staff is aware that the operator is in the
14 process of working with the City planning department on a
15 CEQA review for a future vertical expansion. This permit
16 revision does not allow for the future planned expansion,
17 and the permit will need to be revised prior to any
18 vertical expansion being allowed.

19 Some of the correspondence indicated issues with
20 landfill gas and landfill operations at the site. Staff
21 have found the site to be in compliance with all
22 applicable state minimum standards relative to landfill
23 gas as well as other operational requirements.

24 Several individuals have indicated that the site
25 is located in an area with a predominant minority or poor

1 demographic in an area highly impacted by other
2 environmentally impacting uses.

3 Staff, therefore, utilized resources available to
4 them. And according to the latest available demographic
5 data in the 1990 census for this specific area, staff was
6 able to determine that the population is identified as
7 being 1.6 percent black, 55.3 percent white and 33.7
8 percent other races.

9 Forty-seven point two percent of the population
10 was identified as Hispanic. According to this census
11 data, 10 percent of the population was below the poverty
12 line.

13 In the immediate surrounding area there are
14 closed landfills with various post-closure land uses such
15 as auto salvaging and inert debris processing.

16 An adjacent site produces gravel materials.
17 There are several commercial and industrial sites
18 neighboring the site. And a large volume transfer station
19 is near the site as well as several small or limited
20 volume transfer stations within a few miles of the site.

21 To the south, however, there are several occupied
22 residences, and they are near the area in which a majority
23 of the regrade will be taking place.

24 Staff have investigated the level of community
25 outreach relative to the activities addressed in the

1 proposed permit. The site has been subject to a series of
2 environmental reviews, all of which have allowed public
3 input. The operator has a liaison that communicates on a
4 regular basis with residents and businesses neighboring
5 the site. However, staff has determined that no specific
6 local outreach effort was made relative to this specific
7 regrade project by the LEA or the City planning department
8 or the operator.

9 The LEA has not received any requests for
10 notification regarding the permit revision application,
11 but has per statute and regulation maintained the required
12 list of pending applications which is accessible to the
13 public.

14 Staff is aware that the Permitting and
15 Enforcement Committee Chair's office has included
16 information about this permit revision as part of the
17 regular news letter to interested parties and the item was
18 posted on the Board's website prior to the Committee
19 meeting.

20 Based on the findings that Bill has shared with
21 you relative to state minimum standards, financial
22 assurance, and other issues as well as the consensus of
23 staff relative to the CEQA findings, staff is prepared to
24 recommend concurrence on this permit at this time.

25 If you have any questions or require more detail,

1 Bill or I are available to provide that information. And
2 the LEA I believe is present, as well as the operator.

3 CHAIRPERSON PAPARIAN: I have a couple questions.
4 I'll see if other Committee members have questions first.

5 Mr. Washington, did you have a question?

6 COMMITTEE MEMBER WASHINGTON: I do, Mr. Chair.

7 I want to go back to the demographics and ask
8 that you give me those numbers again, the make up of
9 the -- now, this is at 9227 Tujunga Avenue in Sun valley?

10 MR. de BIE: Correct.

11 COMMITTEE MEMBER WASHINGTON: You mentioned that
12 staff recommended that it was a poverty community or
13 something?

14 MR. de BIE: Staff utilized the resources
15 available to us. And we went through the web's profile
16 page which does link us to census data. And when querying
17 on the most recent available census data, it was reported
18 for this particular area the 1990 data is the only one
19 available. So certainly there could be changes, there
20 probably have been changes since then.

21 And according to the '90 census data, 1.6 percent
22 was reported as black, 55.3 percent was white, and 33.7
23 other races identified; 47.2 percent of the population was
24 identified as Hispanic. And again in 1990 it was reported
25 that 10 percent of the population was below the poverty

1 line in that general area. And that's a census block
2 data, not -- it's not average for the whole city. It's
3 pretty narrow.

4 COMMITTEE MEMBER WASHINGTON: Thank you.

5 MR. de BIE: Staff did remind me that I did leave
6 out something in the presentation, if you bear with me.

7 CHAIRPERSON PAPARIAN: Go ahead.

8 MR. de BIE: As indicated, I said that there was
9 not staff consensus relative to the CEQA findings. And
10 the specific issues that worries staff were issues
11 relative to -- I'm checking my notes here. My
12 recollection is that what staff was concerned about was
13 the potential effect again of increased waste amounts in
14 certain areas of the landfill contributing directly to
15 increased gas amounts. And, again, staff did send our
16 technical staff down to evaluate their system and found
17 that the system could handle any additional increases in
18 gas. But certainly staff was worried, and continues to be
19 worried about the chronic gas situation at Bradley.

20 There were issues about having operations on a
21 fairly steep slope, very near residences, contributing to
22 dust, odor, litter, and those sorts of things. Currently
23 the site has been implementing this regrade and was found
24 to be in compliance. But they are not currently operating
25 intensively in that one area nearest the residence. So

1 there are still some concerns, lingering concerns about
2 potential impacts when they do move into that area.

3 Part of the rationale of why this was not a
4 larger project than what was previously described is that
5 past CEQA documents describe the slopes of the facility in
6 terms of average, and gave limits in terms of height and
7 average slope. It's the assessment of some staff that
8 certainly the regrade as described is within the average
9 slope calculations. But in certain areas that argument
10 becomes extreme because the slopes are so steep, and then
11 the average is maintained because of the gradual leveling
12 out on the top deck area. So certainly they're within the
13 context of the average slope, but in some areas it's quite
14 extreme. But, again, the CEQA documentation described it
15 in terms of average slope and not specific limits.

16 In addition -- and I'm trying to be fair in terms
17 of giving the Board as much information as we have. But,
18 again, staff has assessed all of this. Staff wanted to
19 make sure that the Board understands that the local
20 approval was done in 1998, given the facts that they had
21 available to them at that time. And part of their
22 assessment was, in their opinion, there would be know net
23 increase in capacity. But through discussions with the
24 operator, it was determined that indeed there is a net
25 increase of approximately a million cubic yards overall

1 for the entire site. But then, again, staff did assess
2 what the potential impacts associated with that might be
3 and we're were unable to come to the threshold level of
4 requiring additional documentation.

5 That's it. Thank you.

6 COMMITTEE MEMBER WASHINGTON: Mr. Chair, just a
7 follow-up.

8 CHAIRPERSON PAPARIAN: Mr. Washington, go ahead.

9 COMMITTEE MEMBER WASHINGTON: In terms of
10 community or residential outreach, what outreach was done?
11 Because it sounds like to me that the 200 -- it says here
12 that some residents are less than 250 feet from the site.
13 What were their concerns? And I'm sure that there were
14 plenty of concerns for them with the landfill being 250
15 feet from them in terms of cancerous, hazardous materials,
16 things of that nature. Is there anything that you have in
17 writing from a residential council or homeowners'
18 association where they raised concerns about this
19 particular site going into this area?

20 MR. de BIE: Again, staff have received various
21 communications, as well as I believe Board members
22 themselves have, from city council members, Assembly
23 members and community action group relative to the site.

24 A lot of the information received dealt with
25 concerns relative to the planned vertical expansion of the

1 site. That's currently going through a CEQA process, and
2 will allow for community input during that CEQA process.

3 This specific regrade, much of which is covered
4 in this permit -- beyond the regrade is a recalibration of
5 the site. And as staff indicated, there were no specific
6 outreach efforts that we're aware of either locally or at
7 the State level relative to this particular project. As
8 evidenced by the communications we got from staff, the
9 word did get out to at least some key community groups,
10 perhaps not all. So there is some awareness locally of
11 today's action -- proposed action. But we can't assure
12 the Committee that everyone around the site is fully aware
13 of this.

14 The obligation for noticing relative to the
15 Board's action is quite limited. There's a need to
16 publicly notice the agenda item. And I believe that's
17 mostly done through the Internet as well as any specific
18 requests. And then the LEA is obligated to notice anyone
19 about an application -- pending application if they
20 receive written notice or written request to specifically
21 notice individuals. And the LEA reports that they did not
22 receive any written requests for notice relative to the
23 Bradley site for any issues.

24 So they have met all their obligations too.

25 CHAIRPERSON PAPARIAN: I think the LEA is

1 indicating he'd like to address this issue too.

2 COMMITTEE MEMBER WASHINGTON: Yeah, and he can
3 come on up. But I want to continue with staff in terms
4 of -- now, my understanding is that the citizens are more
5 confused than they are concerned about this issue. And I
6 think for me it puts me in a very precarious situation to
7 approve something where the citizens are not clear as to
8 what they're getting in their community.

9 You have a city councilwoman who represents that
10 area down there, that I'm very familiar with coming from
11 county government. And I'm not in a position to support
12 something where you have the local city council members as
13 well as a group of citizens who represent their area
14 saying they oppose based on the fact that they don't have
15 the full knowledge of what's being placed in their
16 community. And certainly you can chime in and -- if you
17 want, or staff or whoever.

18 MR. TSUDA: If I may, I'd like to just take a
19 minute --

20 CHAIRPERSON PAPARIAN: Would you identify
21 yourself for the record. Thank you.

22 MR. TSUDA: My name is Wayne Tsuda, and I am the
23 Director for the L.A. City LEA.

24 The L.A. City LEA is located in the Environmental
25 Affairs Department of the City of Los Angeles. And we are

1 the current LEA and have been certified since 1991. Prior
2 to that, the City's Bureau of Sanitation and the County
3 LEA -- L.A. County LEA were co-LEAs.

4 We had been working collaboratively with the
5 Board staff, the operator. And, believe me, this has been
6 a tremendous effort. And we've been working on it for
7 about two years.

8 The purpose of this permit is really to update
9 the information. This is what concerns people, that most
10 of the time revisions reflect changes in permitted volumes
11 or elevations. We are not doing that today. In fact this
12 is not an expansion.

13 The correction for the --

14 COMMITTEE MEMBER WASHINGTON: You're saying this
15 is not an expansion?

16 MR. TSUDA: It is not an expansion based upon
17 CEQA findings that were made by the City planning
18 department when this project was approved.

19 COMMITTEE MEMBER WASHINGTON: But it is an
20 expansion based on what?

21 MR. TSUDA: It results in an increase in disposal
22 tonnage. I think it was quoted somewhere between 600,000,
23 a million cubic yards. This is all done within the
24 permitted boundary under the elevation cap that's
25 currently in the permit.

1 So, yes, there were -- it's a reconfiguration of
2 the site. So some of the site was lost to a drainage -- a
3 retention basin. But the actual disposal area's been
4 shrunk. And that's reflected in the front page of your
5 permit application.

6 As far as the height goes, that correction was
7 made by the LEA and routed both to the operator and to the
8 Board staff back in November of 2000. So what we had seen
9 at that time was a topographical map with an elevation of
10 1,000 feet. And there was a circle there, as
11 topographical maps are commonly drawn.

12 That would infer that there's a flat spot at the
13 top of the landfill. That was not the intention. There
14 is no way an LEA or Board staff would approve a flat
15 surface at the top of the landfill because of ponding
16 issues. They have to drain. So we noticed this in the
17 previous documentation that was submitted. And we
18 surmised that there was a point on the very top of that
19 last circle missing that showed an elevation of 1,010 feet
20 to allow the 3-percent grading on the top deck to allow
21 for drainage. So the 10 feet is not an expansion in our
22 analysis. It was an oversight somewhere. The 1,000 foot
23 was included in the previous permit. We're correcting it
24 to say 1,010. That correction had been made two years
25 ago. And we don't feel that it was significant.

1 COMMITTEE MEMBER WASHINGTON: You know, I
2 guess -- the concern for me is, it sounds like there's a
3 problem with PR in the perception here. And I don't
4 believe items like this should come before this Board for
5 approval until you've met those requirements with the
6 community, the people who have to live under these
7 conditions. And it sounds like to me that the folks are
8 not clear as to what they're getting. You're saying in
9 one sense that it is an extension and in another sense
10 it's not an extension. I mean for me as a member who's
11 been here less than a month, it sounds confusing already.

12 MR. TSUDA: I agree with you. In 1998 this was
13 all considered by the City planning department in issuing
14 it's approval. And in 1998 it was determined by the City
15 planning department that that amount of waste, which
16 represents somewhere around two percent -- a two percent
17 increase, was not significant under CEQA. It did not
18 require further environmental review. It did not require
19 any further permits. If it had, there would have been
20 environmental documentation and outreach per city
21 requirements. But that determination was made by the City
22 zoning administrator, and we carried that forward.

23 As with any large landfill, the environmental
24 approvals, the land use approvals go back over 25 years.
25 It was a very difficult task to try to pull them; all

1 together and understand what they said. And we are
2 prepared to discuss any of that should that be required
3 here today.

4 But one thing is pretty simple, and that what I'm
5 really here to tell you, is that within the last year our
6 LEA has made weekly inspections of Bradley. It is our
7 city policy for the LEA to make weekly inspections, not
8 monthly inspections. And we have conducted over 45 --
9 well, we've conducted 45 inspections within the last year
10 at Bradley.

11 In those inspections, we have uncovered four
12 violations for gas control. The highest reading of any of
13 those four on those dates were 8.5. And they were
14 immediately corrected. We'd feel that the gas control
15 problem at Bradley has been resolved. And it was a
16 tremendous effort. Bradley had installed a new flare.
17 Probably spent over a million dollars putting in new wells
18 to alleviate this problem.

19 COMMITTEE MEMBER WASHINGTON: And, you know,
20 that's probably true, that's probably true. But what
21 about how many meetings have you had with the community
22 folks, how many hearings have you had about this issue as
23 well as inspections to make sure that the people
24 understood what you were doing, what the process was, and
25 how you got to where you are today?

1 MR. TSUDA: We did not conduct any meeting with
2 the public.

3 COMMITTEE MEMBER WASHINGTON: Okay.

4 CHAIRPERSON PAPARIAN: Let me ask just a couple
5 questions for clarification. I know, Mr. Cannella, you
6 have a couple questions too. Ill try to be real quick,
7 and then I'll come back to some other issues.

8 Some of the communications we've received from
9 community members indicated there was a meeting on
10 December 10th or 12th, somewhere in there, about -- was it
11 about this?

12 MR. TSUDA: No.

13 CHAIRPERSON PAPARIAN: It was about a different
14 expansion of the facility?

15 MR. TSUDA: Yes. I think the problem --

16 CHAIRPERSON PAPARIAN: Yeah, let me see if I can
17 help clarify that. There was some discussion about a
18 43-foot increase in height. So that's something we expect
19 to see in the future, is a proposal to come back at 43
20 feet. What we have before us is a 10 foot increase in the
21 permitted height even though, as you explained, you
22 believe that that's what you understood it to be before
23 even though it was leveled at a thousand feet.

24 By approving this, would we -- what is the
25 relationship to the approval of this, what's before us, to

1 the 43-foot expansion? In other words, if we were to
2 approve this and do nothing else -- and approve nothing
3 else in the future, you know, could the facility be closed
4 adequately, or is the ability to close and keep the slopes
5 correct and so forth going to be dependent upon that
6 43-foot increase which we don't have before us today?

7 MR. TSUDA: No. These are completely separate,
8 completely separate.

9 If in the future there is a proposal to add 43
10 vertical feet and it's approved by the City, and they get
11 their land use entitlements, and Bradley requests that a
12 permit revision be done, we'll come back to you for that.
13 But if that does not occur, then all of the terms and
14 conditions in the existing permit are carried into this
15 revised permit, and landfilling would cease when they meet
16 their upper elevations per the terms of this permit.

17 CHAIRPERSON PAPARIAN: Okay. Then in terms of
18 the notification, it was stated that people who weren't
19 notified had not requested to be notified.

20 But do you have a mailing list just of anything
21 involving Bradley, or does it have to be specific to
22 what's coming up involving Bradley?

23 MR. TSUDA: We do not have a specific mailing
24 list in the LEA for Bradley. The reason for that is that
25 we've never had any written or verbal requests for this

1 information from the community. The community around
2 Bradley, depending on how you look at it, there are four
3 residences -- I think there are four residences adjacent
4 to Bradley. Most of the adjacent structures are
5 businesses. The community is a little further out than
6 that, but there are four houses nearby. And I think the
7 Bradley operator could tell you if I'm incorrect, but
8 there are very few houses around Bradley.

9 CHAIRPERSON PAPARIAN: If the community members
10 asked to be notified of future meetings, hearings,
11 activities, would you create such a mailing list?

12 MR. TSUDA: Absolutely.

13 CHAIRPERSON PAPARIAN: Okay. We have some
14 communications that we've received from the -- a Pacoima
15 citizens group and then several citizens in Sun Valley.
16 And perhaps we should just get you those addresses. I
17 think it's -- you know, as Mr. Washington has pointed out,
18 it's very important to be sure that folks who are
19 concerned about things happening in their communities are
20 informed about the decision-making process, when the
21 decisions will be taking place.

22 MR. TSUDA: If I may just clarify.

23 I would be happy to take that information. I
24 would be happy to take that to the planning department.
25 But right now there is nothing before the LEA or our

1 department concerning the 43-foot expansion. There's no
2 application to us -- for us to act on it.

3 But as a city representative, I would be
4 absolutely delighted to take it back and make sure it gets
5 to the right parties.

6 CHAIRPERSON PAPARIAN: Yeah. Presumably there
7 will be at some point. And I think based on some of the
8 communications that I've gotten about a four-story or a
9 five-story increase in the facility, I think the comments
10 were about that proposal in some instances.

11 Mr. Cannella, you had some questions?

12 COMMITTEE MEMBER CANNELLA: I had a couple of
13 questions.

14 You mentioned earlier that this does not change
15 the upper elevation of the -- what is the current upper
16 elevation?

17 MR. TSUDA: In the current permit we've made a
18 correction to indicate 1,010 feet.

19 COMMITTEE MEMBER CANNELLA: But I think -- we're
20 getting so many. You've made a correction to increase the
21 height.

22 MR. TSUDA: We don't believe it is an increase.
23 We believe it is a correction. The reason we believe that
24 is because of the drawings --

25 COMMITTEE MEMBER CANNELLA: I understand about

1 the flatness of the thing. But in actuality you're
2 increasing the capacity of that landfill by 25 percent.

3 MR. TSUDA: I don't agree with that statement,
4 sir.

5 COMMITTEE MEMBER CANNELLA: You're excavating the
6 grounds to a lesser degree to allow for between 600,000
7 and a million tons of volume. That is increasing the
8 landfill capacity.

9 MR. TSUDA: The decision to regrade the landfill
10 was made by the City planning department in response to a
11 regrade application in 1998. At that time there was a
12 determination made that that operation did not constitute
13 a significant change under CEQA based upon their analysis
14 of all previous CEQA documents.

15 COMMITTEE MEMBER CANNELLA: When you received the
16 permit for the landfill, was there not a capacity rating
17 for it?

18 MR. TSUDA: There is a capacity -- estimated site
19 capacity. But the controlling factor in the landfill is
20 really the elevation.

21 COMMITTEE MEMBER CANNELLA: But the issue of the
22 permit was based on an anticipated volume. And you are
23 now increasing that volume in violation of the original
24 permit that was issued.

25 MR. TSUDA: The original permit also indicates

1 that the limiting factor is elevation and not tonnage.

2 COMMITTEE MEMBER CANNELLA: But you're also
3 increasing the elevation.

4 MR. TSUDA: Well, you can see how we kind of got
5 into this issue with the Waste Board staff. We believe
6 it's a correction. I think the Waste Board staff agrees
7 with us. I believe I heard that earlier.

8 COMMITTEE MEMBER CANNELLA: Well, if I was the
9 guy who lived in that house 250 feet away and I could see
10 the sun at 10:00 o'clock, and after you made an adjustment
11 I couldn't see it until 1:00 o'clock, I would argue that
12 there was an increase in height.

13 MR. TSUDA: Well, I could show you drawings about
14 what we're talking about. It is a very small area we're
15 talking about.

16 COMMITTEE MEMBER CANNELLA: I guess the other
17 question is that -- in any department that deals with the
18 public, the public's concern and public health and safety,
19 I just can't fathom why it hasn't been a policy to notify
20 folks, business or residential, people from around that
21 area, what the intent was of the County, to keep them
22 informed.

23 I was a little amazed that you would come up here
24 and say that there is confusion. I mean that's what your
25 job is, to eliminate confusion. I can't understand this

1 late of date why all these folks are concerned about, in
2 your opinion, things that they don't understand.

3 MR. TSUDA: Well, I cannot speak for the planning
4 department because I'm not a representative of their
5 department. But I know that the scoping meeting that
6 occurred in December was a scoping meeting to hear from
7 the public what their concerns were as this proposal goes
8 through their procedures. I understand there were over
9 100 people in attendance at that meeting. But there are
10 many more that felt that they would have come had they
11 gotten notification.

12 COMMITTEE MEMBER CANNELLA: Well, the way you
13 notify the public is through the legal notices in the back
14 of the newspaper that are about this wide and about that
15 high. So I can understand why a lot of folks didn't know
16 about it.

17 But I mean that's my concern as well, is that
18 there are some -- I believe it's an expansion. When you
19 change the dynamics of the landfill, when you change the
20 height of it, when you exceed what the capacity of the
21 volume was with the original permit, no matter how you try
22 to couch it, it's an expansion of the facility. And I'm a
23 little concerned that the folks are unaware or confused
24 about what's going on. It should have certainly by now
25 been made crystal clear about what the intent was.

1 CHAIRPERSON PAPARIAN: Yeah, I mean, if we did
2 nothing today, if this didn't go through, the maximum
3 height of the facility would be permitted at a thousand
4 feet. I understand that originally it should have been a
5 thousand ten, and that was what was meant at the time.
6 But I have to agree with Mr. Cannella, that, you know, it
7 is a 10-foot increase in what is permitted.

8 MR. TSUDA: I disagree, sir, respectfully.

9 CHAIRPERSON PAPARIAN: I mean if we did nothing,
10 if this didn't go through, could the facility go up to a
11 thousand and ten feet --

12 MR. TSUDA: I believe --

13 CHAIRPERSON PAPARIAN: -- and leaving you
14 consistent with the permit?

15 MR. TSUDA: I believe it can. And as evidence I
16 would like to show you the current permit, the permit that
17 they're operating under right now. The cover page says
18 1,010 feet. There's a foot note at the bottom that
19 indicates that there was a correction made by the LEA back
20 in November of 2000 to correct that 1,000 to 1,010 feet.

21 CHAIRPERSON PAPARIAN: Okay. And that made it
22 through the Board?

23 MR. TSUDA: Yes, I believe so.

24 CHAIRPERSON PAPARIAN: The Board voted on a
25 thousand and ten feet?

1 MR. TSUDA: It wasn't a Board item. I don't
2 believe it was agendized for the Board.

3 ACTING DEPUTY DIRECTOR WALKER: There's no
4 request for concurrence or submittal of a change per
5 revised permit to the Board.

6 CHAIRPERSON PAPARIAN: Okay. And that's my
7 point. The permit that this Board voted on said a
8 thousand feet. I don't want to get too hung up on this,
9 but I think that from this -- from a Board member's
10 perspective what is in place right now is a thousand feet.
11 That's what the Board has voted on previously. And this
12 will be ten more feet.

13 MR. TSUDA: We at the LEA don't believe the Board
14 intended for the landfill to have a flat surface on top.

15 CHAIRPERSON PAPARIAN: Right, it may not have
16 been intended, but that's what was voted on. The Board
17 voted on something that said a thousand feet.

18 So I -- we shouldn't get hung up on this too
19 much, I don't think.

20 Let me just ask one other question of you. The
21 new permit has some stuff in it about notifying neighbors
22 regarding gas exceedances.

23 MR. TSUDA: Right.

24 CHAIRPERSON PAPARIAN: And I think it's -- if
25 there are two days or three days of --

1 MR. TSUDA: Three days. Notify businesses or
2 residences within the area of the high gas reading if that
3 gas reading is above 5 percent for three consecutive days.

4 CHAIRPERSON PAPARIAN: Okay. How will that
5 notification take place?

6 MR. TSUDA: We will notify -- the LEA will notify
7 those businesses directly.

8 CHAIRPERSON PAPARIAN: But will it be a written
9 notice, a phone call?

10 MR. TSUDA: Well, it's a condition of the permit.
11 So the operator should do it. We would assure that it's
12 being done. I should put it that way.

13 CHAIRPERSON PAPARIAN: Okay. So that type of
14 notice would not be the sort of thing that Mr. Cannella
15 was saying, a legal notice in the newspaper? It would be
16 a personal notification?

17 MR. TSUDA: It would be a notification from the
18 operator, but we would monitor it to make sure that it's
19 being done.

20 CHAIRPERSON PAPARIAN: Okay. The environmental
21 justice issues that have popped up in a few of the letters
22 that we've received, have you been made aware of those?
23 Do you have any comment on the issues that have been
24 raised?

25 MR. TSUDA: Haven't seen the letter so far, but

1 I'd be happy to incorporate them into our program.

2 CHAIRPERSON PAPARIAN: Members, my temptation at
3 this point would be to forward this to the full -- I'm
4 sorry. Before I do that, I do have a speaker's slip from
5 the operator. I shouldn't -- we should hear from the
6 operator before taking any further action.

7 Mr. Doug Corcoran from Waste Management. And if
8 anybody else wants to speak on this issue, there are
9 speaker slips in the back of the room.

10 Mr. Corcoran.

11 MR. CORCORAN: Thank you, Mr. Chairman. My name
12 is Doug Corcoran. I'm the manager of Bradley Landfill.
13 With me today is Paul Willmon. He's our technical and
14 compliance manager. And he can answer a lot of these
15 questions.

16 First of all, let me thank the staff though. As
17 you can see, this has been a heck of a project. Extremely
18 complicated. We went back mind-deep into the history of
19 the permit and CEQA path that this landfill has taken
20 through the years in order to get to this point today. We
21 feel that we've done a good job of it and we have a good
22 product to present to you. Although it is complicated,
23 and so you can see -- and you can imagine what we've been
24 going through for the past two years just from your
25 discussion here.

1 Let's see. I did have a presentation. A lot of
2 it's already been covered. So what I'd like to do is kind
3 of focus on some of the issues that came up during the
4 discussion.

5 The first one that came up was I believe
6 notification, what kind of outreach was done, what kind
7 that we do, in general.

8 And let me put the residential neighborhoods into
9 perspective for you. There's -- I think there's one guy
10 left. There might be two residences left next to the
11 landfill. Most of the people moved out or passed way.
12 We've bought a lot of the property. The one person who
13 lives closest is a guy named Joe Slackey. He's actually
14 written a letter of support for our 43-foot extension,
15 which is the next project that we'll be coming to the
16 Board with some day in the future after we go through CEQA
17 on that.

18 So he's actually okay with the landfill. We're
19 out there, I wouldn't say all the time, but at least once
20 a week we make contact with Mr. Slackey. We clean up out
21 in front of his house. There's some illegal dumping that
22 goes on back there. And so we take care of all that
23 property for him.

24 COMMITTEE MEMBER WASHINGTON: Who does the
25 illegal dumping if he's the only person out there?

1 MR. CORCORAN: People -- who does the illegal
2 dumping?

3 COMMITTEE MEMBER WASHINGTON: Yes.

4 MR. CORCORAN: Well, it's not him. It's people
5 who come from other areas and either don't want to come to
6 the landfill and pay the fee or for whatever reason they
7 come over there. And they dump on the street in front of
8 his house. And you'd find stuff like refrigerators, large
9 stumps from trees, even car body, things like that. And
10 then he'll give us a call and say, "Hey, can you come
11 over?" And we send a loader out there and we pick that
12 stuff up for him.

13 I'll give you just a brief kind of summary of
14 some of the things that we do as community outreach in
15 general.

16 There's really three residential neighborhoods
17 near to the landfill -- oh, before I go there, there's
18 been an issue of -- or questions here about proper
19 notification. What the statute requires is -- and this
20 led to the problems at that other hearing in December,
21 which is causing some of the confusion with the letters
22 you're getting on this issue, which is not the subject of
23 that hearing.

24 But the statute requires that there's -- all
25 residences and businesses within 500 feet of the perimeter

1 of the site are notified. And the planning department
2 basically generates that mailing list off of tax assessor
3 records. And then we pay for the mailing. They send the
4 mailing out to alert people about projects that are coming
5 up.

6 The residential neighborhoods that are -- with
7 the exception of Joe Slackey and potentially one other
8 person that lives over there, those residential
9 neighborhoods actually fall outside of the 500 foot radius
10 of the perimeter of the site.

11 So what we're going to do with that is we pulled
12 that thing back and we've worked with the City and we're
13 going to revise that mailing list. And we're actually
14 going to go -- in one area we're going to go about a mile
15 to the north, we're going to go about four miles to the
16 west and east, another mile in another direction. I mean,
17 we're going to -- we're going way beyond the scope in
18 that.

19 So it really is to our benefit, we know that, to
20 get as much notice as we can out there. And even if we do
21 that, there's going to be some people who say, "I think I
22 was impacted." In fact, at that meeting in December we
23 had people from as far away as Granada Hills and almost up
24 into the Ventura County line coming out and saying, "I
25 should be notified for anything that goes on in this

1 city." So I mean we're going to have some people that say
2 that. We're going to do what we believe is due diligence
3 and we'll keep on trying with that, but on an ongoing
4 basis.

5 There's three residential neighborhoods that are
6 sort of close to the landfill, within a mile. One is
7 called Stonehurst and Shadow Hills, one is called the
8 Fernangeles Burgh Middle School area. And then there's
9 another area that's sort of a -- I don't really know if it
10 has a name. It's sort of a -- it's unnamed, but it is a
11 collection of residences. Other than that it's all
12 industrial and heavy commercial around there.

13 In the unnamed area, a lot of our employees live
14 there. And they just come over from there. We haven't
15 quite determined how to disseminate other than just mass
16 mailing information to that area, because they don't have
17 any group that sort of represents them and brings together
18 the interests of that community.

19 But as we go on we'll just -- either we'll
20 continue with the just general outreach or we'll find a
21 group that does represent them.

22 In the Stonehurst and Shadow Hills areas we have
23 representatives that attend every single one of the
24 community meetings over there. We have a person named
25 Tracy Lovejoy. She goes to every Stonehurst meeting.

1 It's every month.

2 And then we have another representative that
3 lives in Shadow Hills. And he is the -- I think he's the
4 editor of the Shadow Hills Community Organization News
5 Letter. He's at every one of those meetings.

6 So we have communication going on there. We give
7 them the information they need to tell people. When we
8 have things going on at the site, we do our best to try
9 and get that information out to those people.

10 On the other side of the landfill is the
11 Fernangeles neighborhood. That neighborhood is
12 predominantly Spanish speaking, newer to the area. A lot
13 of people from Central America, and also Mexico,
14 relatively new to the area.

15 We have a guy over there, his name is Vidal, and
16 he lives in that area. He and his wife are heavily
17 involved with the schools. And schools seem to be where
18 people gravitate towards to organize and group together
19 and learn about things.

20 So he and his wife are involved with the PTA,
21 they're involved with outreach programs. And he is our
22 representative in there, passing on information that he
23 can. And in fact he just organized a tour of the site for
24 about 12 people over there who are in that PTA, who were
25 under the impression that we were creating dust and odors

1 and all sorts of problems for them and their kids. And
2 one of the things we keep saying, and I say this at every
3 meeting I go to -- I go to quite a few meetings myself --
4 "Come to the site. Come to the site. Come out. Tell me
5 what you see. If there's a problem, you tell me. We're
6 smart guys. We'll figure out a way to take care of that
7 thing." And that's what we try to do with everybody, and
8 it's ongoing.

9 Additionally, we have a person on staff who's
10 a -- let's see, she's the membership chair for our local
11 chamber; she's in a local rotary; she is our
12 representative on the watershed committee, which is trying
13 to come up with ways to solve some of the flooding that's
14 ongoing in that area of the northeast valley. She is also
15 a representative on the Neighborhood Council Formation
16 Committee, which is the mayor's efforts to try and
17 increase the amount of local community involvement in city
18 government. And she's on that committee.

19 We're also the sponsor of all their outreach from
20 that Neighborhood Council Formation Committee. We pay for
21 all the mailings and those sorts of things.

22 We have a 24-hour hot line that we make sure --
23 we let people know about. We have a guy who goes around
24 to all the businesses surrounding the site on a weekly
25 basis, asking them, "What's up? What are your concerns?"

1 What do you think is happening? Here's what we're doing.
2 I want to hand this fax sheet out about our gas system,
3 about the situation at the site, some of our plans," and
4 things like that.

5 We conduct tours. We're the maintenance shop for
6 the City's Graffiti Buster's van -- two vans actually that
7 go around. There's a lot of graffiti problems up in
8 there. There's some gang warfare that goes on. And they
9 tag up walls every now and then. And these people go out
10 and they clean that up. We take care of their vans.

11 And then we on a yearly basis buy about a
12 thousand tickets to the San Fernando Valley Fair, which we
13 donate to the schools so that they can find kids who
14 ordinarily maybe wouldn't have the money to get to that
15 fair. And they give those tickets out there.

16 So we're out there a lot. We talk with the
17 neighbors. We make sure they know what's going on. There
18 is definitely some confusion that resulted as a result of
19 that -- or following the December 12th or 14th scoping
20 hearing. And that has gotten into the mix of this already
21 super complicated issue that we're talking to you folks
22 about today.

23 So hopefully that'll give you an idea of the
24 neighborhood and how we conduct our outreach to the
25 neighborhood.

1 Let's see.

2 CHAIRPERSON PAPARIAN: Mr. Washington, I think
3 you might have a question.

4 I'm sorry. Were you done?

5 MR. CORCORAN: With that part, yeah.

6 COMMITTEE MEMBER WASHINGTON: Yeah, I'm sorry.

7 And I just want you to know that I'm very familiar with
8 the areas you just talked about. And, again, I think your
9 last comment is the most important comment. Somehow all
10 this got convoluted into this whole issue about the scope
11 of -- your scope hearing. And that's where the PR piece
12 comes in. And that's how it's up to you and your
13 organization to figure out how you fix this thing where it
14 won't get to this Board that we have opposition from the
15 City council members and all these other folks.

16 All the stakeholders are going to have to be a
17 part this. And somehow -- and I know a number of ways,
18 and I'm certainly willing to come out and visit your site.
19 And I will do that prior to this -- the decision that the
20 Chair will offer in terms of this particular issue. I
21 definitely want to come and visit your site and to see it
22 for myself. And I will do that very quickly.

23 But, again, I do think it leads to this whole
24 issue of the public notice, things of that nature, how do
25 you do above what you're doing already. And I know --

1 certainly Waste Management, I'm very familiar with the
2 entire company and their operation in the communities.

3 But still we have to address these issues that
4 come before us, and I wanted you to know that.

5 MR. CORCORAN: Sure. I understand that.

6 There was -- should I go on or should I --

7 CHAIRPERSON PAPARIAN: Go ahead.

8 MR. CORCORAN: There's some issues -- or some
9 questions about the elevation, and it being an expansion
10 and an increase in height and the effect it would have on
11 the neighbors and those sorts of things. And I'd like to
12 read to you from the discussion of the zone variance that
13 was issued addressing -- so that's the planning document
14 that addresses this new program, or this new configuration
15 of the landfill. And just to give you an idea of how long
16 this 1,010 feet as a maximum elevation of the site has
17 been in place.

18 I'll just read it. "Case Number ZA 920002" --
19 which is a case from 1992 -- "and Case Number ZA
20 940792" -- which is another land use case from 1994 --
21 "permit the development and use of the property as a
22 nonhazardous solid waste landfill. These approvals
23 authorize 184 of the 209 acres contained within the
24 ownership for use as a landfill, with an average grade of
25 10 percent for the slopes and a maximum elevation of 1,010

1 feet." That's at least as far back as '92 and '94.

2 The terms and conditions: "Terminate, April
3 14th, 2007." That's been standard.

4 I guess that pretty much would address the height
5 issue. It's not a new thing. It really is as simple
6 as -- I don't know whether you call it a typo or what, but
7 the contour plan, the plot plan, the drawing was
8 submitted, and it just didn't make it to that one box on
9 the front of the permit as a thousand ten.

10 COMMITTEE MEMBER CANNELLA: That permit was from
11 the LEA and the planning department? It was not
12 authorized by the Waste Management Board?

13 MR. CORCORAN: That's the height that was
14 approved and studied under CEQA. That was addressed --
15 was noticed to the public. And the -- I mean the people
16 in the community who live around there were aware of 1,010
17 feet.

18 COMMITTEE MEMBER CANNELLA: But that's not what
19 the permit was issued at?

20 MR. CORCORAN: I think the permit was issued at
21 that, except that there was -- because if you look,
22 there's actually inconsistency within the permit itself.
23 On the cover page that has discussion -- on the Waste
24 Board's permit it references 1,010 feet, as Mr. Tsuda
25 indicated.

1 But then for some reason on that -- it's just
2 sort of like the page that has all the little -- the boxes
3 that are filled in with information it said a thousand.
4 So within the very permit itself it referenced a thousand
5 ten and a thousand.

6 COMMITTEE MEMBER CANNELLA: But if it wasn't a
7 thousand ten you wouldn't be here today asking for a
8 thousand ten.

9 COMMITTEE MEMBER JONES: Mr. Paparian.

10 CHAIRPERSON PAPARIAN: Mr. Jones.

11 COMMITTEE MEMBER JONES: You know, I think that
12 Mr. Cannella's question is a good one for a real simple
13 reason. I love advisors. Because the permit is not our
14 permit. It's Mr. Tsuda's permit as the LEA. It's not our
15 permit. It's Waste Management's permit. We only concur
16 in his issuance of a permit.

17 And this topographical map, I'm assuming, the
18 original one plus that dialogue of the ten ten, was part
19 of the RFI or the report of disposal information, which is
20 the background and the real heart of what a permit is.
21 That's what tells you what the operations are. That's
22 what tells you what the conditions are. This page here is
23 nothing.

24 I mean the issue wasn't so much between Mr. Tsuda
25 and Waste Management. The issue was between Mr. Tsuda and

1 the Waste Board staff, who blew this up pretty good at one
2 point, rightfully so, trying to make sure everything was
3 right. But I think you have to keep going back to the
4 idea that this was Mr. Tsuda's permit. And the fact that
5 that topo -- the topographical map showed a thousand ten
6 feet as part of the RFI, then what he did by saying I'm
7 going to make this change to reflect what had already been
8 approved is completely appropriate. It happens every day.

9 The capacity issues that certain folks are
10 worried about change -- it can change just by the
11 difference in equipment. You could go from an 816
12 compactor to an 836 compactor. Same piece of equipment --
13 I mean it looks the same. But it weighs almost 20,000
14 pounds more. It will give you denser capacity, as will
15 the waste that's coming into the facility could change to
16 where it's easier to compact.

17 So we're getting hung up, rightfully so -- I mean
18 I think the public information issues are really
19 important. We're getting hung up and we're micro-managing
20 through our comments here Mr. Tsuda's permit of something
21 that already existed, and I worry about that. Because we
22 need to some day, P&E staff needs to bring for this Board
23 what a whole permit package looks like, because nobody on
24 this Board, I don't think, with the exception of me, has
25 ever seen one. So bring the five volumes that are that

1 thick, that are actually what the permit is.

2 So we're getting hung up on a page and a picture.

3 But it's all that stuff in between, and that's what we
4 approved as a board in 1998.

5 And when he found a mistake, he changed it. He
6 didn't change what had been approved. He made it reflect
7 what had already been approved. And, you know, I mean I
8 think it's good that we have these kinds of discussions.
9 But at some point I'd appreciate it if staff would bring
10 forward what that whole package looked like, because
11 clearly this topo was in the RFI. And it's the RFI that
12 is what does it.

13 COMMITTEE MEMBER WASHINGTON: Mr. Chair.

14 CHAIRPERSON PAPARIAN: Mr. Washington.

15 COMMITTEE MEMBER WASHINGTON: So if I'm hearing
16 Mr. Jones correctly, is it staff's fault, Mr. Jones, that
17 it's documented at 1,000 rather than 1,010 because it
18 wasn't Integrated Waste Board's permit, it was another
19 issuance of a permit from someone else at 1,010? Is that
20 what I'm hearing you saying?

21 COMMITTEE MEMBER JONES: I don't know who's fault
22 it was that they didn't fill in that one box. But I'm
23 saying that the permit that got issued that showed a
24 topographical map, which we've got a copy of, that shows a
25 thousand ten is part of the documentation that you've got

1 to put together to even get a permit. You know what I'm
2 saying?

3 CHAIRPERSON PAPARIAN: Yeah, I mean -- I don't
4 think we should debate this too -- I mean we're getting
5 into the -- I think if you look at the topographical map
6 as it was explained to us and you looked at what the Board
7 voted on at the time it voted on this, the contour that
8 was on that map was a thousand feet. What the testimony
9 was -- and, you know --

10 COMMITTEE MEMBER JONES: He's saying it wasn't.

11 CHAIRPERSON PAPARIAN: He's saying that you have
12 to extrapolate to the middle of that contour. And if you
13 extrapolate the slope to the middle of the contour, you
14 ought to have come up with a thousand ten feet. I
15 understand that.

16 But I think that for a Board member who voted on
17 this -- I didn't. I wasn't here at the time. But a Board
18 member who voted on this at the time --

19 COMMITTEE MEMBER JONES: I did.

20 CHAIRPERSON PAPARIAN: -- would have thought that
21 it was a thousand feet. That's what was said in the front
22 page of the permit. You thought you were voting on a
23 thousand foot elevation.

24 COMMITTEE MEMBER JONES: Well, actually what I
25 thought I was voting on was a permit that Mr. Tsuda

1 brought forward, that our staff had concurred with.

2 COMMITTEE MEMBER WASHINGTON: That had a thousand
3 or a thousand ten in it?

4 COMMITTEE MEMBER JONES: Doesn't matter. I mean
5 it's not -- it wasn't one of the highlights of the
6 discussion in '98, because you have a permit that comes
7 forward that has all this stuff. It has only become a
8 issue for this Board because when they went and started to
9 do the regrade, our staff said, "We're not sure you can do
10 that." And that only took meetings and all this other
11 stuff to get that figured out. So it wasn't an issue.

12 And that's what I'm saying, is we're
13 micro-managing -- we're trying to micro-manage something
14 that is clearly the LEA doing his job. The LEA is doing
15 exactly what this Board and what the statutes ask him to
16 do. He's not giving anything away. Tsuda is not the kind
17 of guy that gives anybody anything.

18 (Laughter.)

19 COMMITTEE MEMBER JONES: So I mean it amazes me
20 that we're talking about -- because when you look at a
21 topographical map -- and what I see in this one is you've
22 got the ring and then you've got another line. And I hate
23 to tell you that, but that other line is where you end up
24 with height. So I think that when you're going from here
25 to here, that's an important thing.

1 CHAIRPERSON PAPARIAN: Let me make a suggestion
2 about how to proceed on this permit. I think that we've
3 heard a lot. There's a lot to digest. I think Mr.
4 Washington indicated he'd like to visit the site. I
5 recommend -- I've been to the site myself. I think it's
6 very worth doing to get a real perspective about what's up
7 at the site, what the neighborhood really is and so forth.

8 My suggestion is going to be that we forward this
9 to the Board meeting for a vote at that time, that we not
10 take a vote today. And I don't mean this to prejudice the
11 permit one way or another, but I think that several of the
12 members would like to have a little bit more detail about
13 what we've heard today.

14 I'd also like to suggest -- this is the first
15 permit that I'm aware of that's come forward where there
16 have been specific environmental justice concerns raised
17 from the community. And I understand that staff feels
18 that they have looked at the issue and don't believe that
19 it's an issue that needs to be -- that needs to impact our
20 vote on the permit. But my suggestion would be -- maybe
21 I'm not characterizing that exactly right. But let me
22 just offer my suggestion; and, that is, that between now
23 and the Board meeting, we take the information that we
24 have, we consult with the Environmental Justice
25 representative up at Cal EPA, and see if there is any

1 belief that based on the information that we have that
2 there should be or shouldn't be an environmental justice
3 concern about the proposed permit.

4 I think there were some issues raised about the
5 notification. I understand, Mr. Corcoran, your
6 explanations of how you're doing a lot of the
7 notification. I think that some of the members may want
8 to digest that a little bit and think about the
9 implications of that as well.

10 And then just for anybody who may be listening on
11 the Internet or anybody in the audience, when we come back
12 to the Board meeting there will be basically three options
13 for this Board:

14 One would be to concur with the permit. That
15 would take four votes -- four affirmative votes.

16 One would be to deny the permit. However, if we
17 were to deny the permit, we are to come up with very
18 specific reasons why we're denying it pursuant to the
19 statute. And the statute is very limiting in what we
20 would be able to deny the permit for; among other things,
21 whether we would believe that granting the permit would
22 result in a violation of state minimum standards. And
23 there are some other factors that could be used there as
24 well.

25 The third option is if the Board does not act to

1 approve the permit or deny the permit, it gets punted back
2 to the LEA, and the LEA would have the authority to grant
3 that permit.

4 So I think that some of the folks who wrote in
5 comments were perhaps not fully aware of what the process
6 is here. But I thought that that brief explanation of the
7 process would be helpful.

8 So my suggestion, again, members, is to forward
9 it to the Board without a specific recommendation at this
10 point. Let the Board hear it. Let the members between
11 now and the Board meeting gather whatever additional
12 information they feel would be appropriate.

13 COMMITTEE MEMBER JONES: Mr. Chair.

14 CHAIRPERSON PAPARIAN: Mr. Jones.

15 COMMITTEE MEMBER JONES: The issue of
16 environmental justice as a reason not to issue a permit
17 rests with local government. It's not one of the six
18 factors that we have.

19 So is somebody from our staff going to look at
20 the planning department records when they did have this
21 discussion to see if these issues were brought up then or
22 at any time in the history of this facility or is this a
23 new issue that's come up, you know, within the last six
24 months?

25 And I think that's important to know because

1 actually the environmental justice has been played once
2 before. It was played in San Jose when a competitor
3 wanted to shut down another competitor. They had
4 testimony about environmental justice. And I think it was
5 at that point that it was made -- that a discussion ensued
6 about both the fact that it was being used for the wrong
7 reasons and that the Board -- that that authority actually
8 rested with local government. And I think we've actually
9 been asked to help local government make sure that they're
10 asking the right kind of questions.

11 So if we're going to do all this work, I'd like
12 to see how many of these environmental justice issues have
13 come up since that permit was there. I think that's the
14 only fair way to get a real picture of when this became an
15 issue.

16 CHAIRPERSON PAPARIAN: Okay. My initial request
17 was that we just, based on the basic information available
18 regarding the permit and the comments, just hear back from
19 the environmental justice folks at Cal EPA whether they
20 believe there is an environmental justice issue or not.

21 What you're suggesting is taking it a step
22 further, and that's --

23 COMMITTEE MEMBER JONES: An issue or a -- I mean
24 I guess that's where my concern was, is -- was there an
25 issue meaning under this permit there's no evidence that

1 environmental justice is an issue, is that what they're
2 going to tell us or -- I guess that's what my problem is.

3 CHAIRPERSON PAPARIAN: I don't know what they're
4 going to tell us.

5 COMMITTEE MEMBER JONES: So I guess then this
6 would be -- depending upon their thing, then I think there
7 has to be some other work so that we have a full picture.
8 Is that fair?

9 CHAIRPERSON PAPARIAN: I mean I think if it were
10 to come back that there was an issue, then I think that
11 would --

12 COMMITTEE MEMBER JONES: -- trigger that request
13 of mine?

14 CHAIRPERSON PAPARIAN: Yeah, and probably
15 additional information as well.

16 COMMITTEE MEMBER JONES: That's fine.

17 CHAIRPERSON PAPARIAN: Mr. Washington.

18 COMMITTEE MEMBER WASHINGTON: Yeah, Mr. Chair, I
19 would like to request from staff a report as to the issue
20 of 1,000 versus 1,010, what was the intent of this Board?
21 I wasn't here as well the Chair. But I would like to see
22 that in print as to what was the intent of this Board when
23 you approved the permit that Mr. Jones just spoke about.
24 I think that's an important issue and certainly to set the
25 record straight in terms of approving these type permits,

1 that this type of discussion will have to happen again to
2 know what the intent of this Board was when they approved
3 it. Was it 1,000 or was it 1,010 feet?

4 CHAIRPERSON PAPARIAN: Okay. Anything else on
5 this permit?

6 If not, we'll take a break now and come back at
7 1:30.

8 (Thereupon a lunch break was taken.)

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1 AFTERNOON SESSION

2 CHAIRPERSON PAPARIAN: All right. We'll get
3 going with our afternoon session. At this pace we'll be
4 done about Thursday afternoon unless we pick up the pace a
5 little bit.

6 (Laughter.)

7 CHAIRPERSON PAPARIAN: Ex partes.

8 Mr. Cannella.

9 COMMITTEE MEMBER CANNELLA: I'm up to date.

10 CHAIRPERSON PAPARIAN: Mr. Jones.

11 COMMITTEE MEMBER JONES: No. I'm up to date.

12 CHAIRPERSON PAPARIAN: Mr. Washington.

13 COMMITTEE MEMBER WASHINGTON: Yeah, Mr. Chair, I
14 have two. Waste Management, Mr. Kent Stoddard, just
15 talking about me visiting their company. And also Judith
16 Ware and Patrick Munoz with the Ware Disposal Company
17 invited me to visit their company.

18 CHAIRPERSON PAPARIAN: And I have none.

19 Well, I think we're ready for a new item.

20 Mr. Walker.

21 ACTING DEPUTY DIRECTOR WALKER: Thank you.

22 We're going to shift into Item F, which is
23 discussion and request for rulemaking direction on
24 noticing revisions to the proposed waste tire monofill
25 regulatory requirements for an additional 15-day comment

1 period. And this is January Board Item Number 40.

2 And staff presentation will be by Keith Kennedy.

3 MR. KENNEDY: Good afternoon, Committee members.

4 Since the November 12th public hearing regarding
5 the proposed waste tire monofill regulations, Board staff
6 have made several revisions to the regulations per
7 correspondence from industry representatives, residents
8 surrounding the California Asbestos Monofill Facility near
9 Copperopolis in Calaveras County, in addition to feedback
10 from a December 16th public meeting in Copperopolis.

11 The revisions were with consultation from Dr.
12 Dana Humphrey and the State Water Resources Control Board
13 staff.

14 The major revisions to the regulations include:

15 Clarification of what is considered beneficial
16 reuse of waste tires.

17 A section regarding how an operator will prevent
18 a tire fire, suppress a fire if one should occur, and
19 mitigate any impacts from a fire and fighting a fire. The
20 operator is also required to provide written evidence that
21 the local fire control authority has approved the fire
22 prevention control and mitigation plan.

23 Additional revisions include a section regarding
24 an emergency containment system to collect liquids should
25 a fire occur; a section that addresses the removal of

1 storm water and water that accumulates in a monofill; and
2 clarification of cell size, number of cells that can be
3 opened, and types of altered waste tires that can be
4 accepted in a monofill.

5 Board staff is asking for approval to notice the
6 revised regulations for an additional 15-day public review
7 and comment period.

8 Dr. Dana Humphrey, the Board's contracted expert
9 on waste tire monofills, and a representative of the State
10 Fire Marshal's Office are available for any questions.
11 And I believe there are some residents from Copperopolis
12 that would like to address the Committee.

13 The agenda item went into some depth regarding
14 background information for these regulations. And I will
15 be happy to update the Committee members with any past
16 history.

17 That concludes staff's presentation.

18 CHAIRPERSON PAPARIAN: Okay. And for anybody who
19 wants to speak on this item, if you haven't filled out a
20 comment slip from the back of the room yet, if you could
21 do so, and hand it to the Committee secretary, that would
22 be great.

23 Any comments from -- or any questions from the
24 Committee members before we hear the public comments?

25 Okay. I have two slips. First of all, Michael

1 Gramerl -- I'm sorry if I'm mispronouncing that -- from
2 the Poker Flat Property Owners Association.

3 Come on up to the microphone.

4 MR. GRAMERL: Mr. Chairman, Board, I certainly do
5 want to appreciate the opportunity to speak this morning a
6 bit. I'd also like to acknowledge that Keith and the
7 people that are involved with this tire monofill, they
8 have been very respectful and decent about getting our
9 input. So I want to acknowledge that. And that's one of
10 the reasons why we're here today, because of that.

11 I'm aware that changes have been made. We even
12 went through them a little bit during the break. And for
13 that I'm grateful. But we are extremely concerned about
14 the tire monofill regulations that are being drafted.

15 Unfortunately in one respect they're site
16 specific. And I know you guys are not dealing in site
17 specific situations. But, clearly, what we -- we do
18 believe that somehow that it can't be left all up to an
19 LEA or local enforcement agency. We think that some of
20 this has to be contained in the more generalized state
21 regulations. So there's specific things that I'd like to
22 bring to your attention here.

23 One question that I have is, in the existing
24 regulations, Section 17346.7, which deals with sites, it
25 says that sites should not be located in a location that

1 would be inundated in a flood.

2 I'm not sure that it fits directly with that, but
3 Tri-Dam, which has been doing a lot of work for FERC, the
4 Federal Energy Regulatory Committee, they've designated
5 that facility -- that the tire monofill in our area that
6 they wanted to fill, that is an inundation area if the dam
7 were to be faulty.

8 So right off the bat I have a real question about
9 why is this even under consideration, and haven't gotten
10 an answer to that.

11 And then along that same line, I'm inclined to
12 think that somehow the State general regulations should
13 deal with major water supply sources. We're not talking
14 about somebody's local well. This 800 foot hole is only
15 1,300 feet from Lake Tulloch, which supplies water through
16 Stockton, Modesto -- I don't know that they get to
17 Modesto -- basically all the farmers and all that,
18 primarily it's irrigation. Secondly, it's a power source.
19 But this is a major water source. And this thing's
20 within, like I say, 1,300 feet away. Somehow there should
21 be some reference that says the proximity's, you know, got
22 to be taken into consideration when it's a situation like
23 this, I believe.

24 This brings up the third area that we've never
25 gotten any feedback from. And Dr. Humphrey, if he's here

1 today, I hope can address a little bit. And that's
2 permeability. You know, this frankly annoys myself
3 anyway, because we hear bandied about, "Oh, don't worry
4 about permeability. It's 10 to the 7th." And I
5 understand the number 10 to the 7th. But what I don't
6 know about it is when and where this 10 to the 7th came
7 from.

8 For example, around that hole, next to this major
9 water source -- if they put down one shaft in one place
10 and got one reading, that's great. But I'd like data that
11 says, "Hey, we've punctured that thing all around there
12 and we can tell you it's as solid as a rock, literally."
13 I'm inclined to think it's fractured rock or could be.

14 So, anyway, I'm concerned about something being
15 in the regulations that deals with this major water source
16 supply and possible contamination.

17 The fire marshal -- here again -- in one respect
18 it's kind of nice that an agency or a statewide would give
19 authority to local sources. There's a lot to be said for
20 that. But we're really concerned that our little fire
21 department, our volunteer fire department, even though
22 trained, we really are questioning that they really have
23 the knowledge and the capability to pass judgment, that,
24 "Yes, it's okay to sink these" how many millions of tires
25 in here and, number one, "We don't think there will be a

1 fire" and, number 2, "If there's a fire, we think we can
2 take care of it."

3 I'm inclined to think that the State Fire Marshal
4 literally has to be on the line so that when something
5 does go wrong, like the captain of a ship, he's going to
6 go down. Because otherwise here's this little guy in the
7 volunteer fire department -- well, he's the guy that said
8 it's okay. We don't want it to end up like that. So we
9 think he should be a definite part of any regulation plan.

10 The other area, somewhere in regulations can you
11 somehow address public access? And by that -- you know, I
12 listened earlier today where the waste -- the operator
13 invited people up all the time. You know, I know, for
14 example, that you can't have people coming and going in
15 this kind of an operation. But we've heard in the past
16 that the operator has denied access, you know, when they
17 phoned in advance to get it.

18 Now, that may be a local thing, but maybe not.
19 Maybe there should be something in the regulations that
20 says, "Hey, with due process the public should have
21 access." And by that I'm meaning a telephone. And it may
22 not be a problem, but I'm wondering if there isn't a place
23 for that in the regulations.

24 Lastly is surface storage. We've gone through
25 all kinds of things about guarding against fire and that

1 for stored product. And some of us are marginally
2 satisfied, if you will. But then we learned that they're
3 going to do the shredding and that on-site, which means
4 there's going to be something like 45,000 tires on-site.
5 And they're going to be shredding them regularly. But
6 there's so many, it's never going to end. So it is as if
7 we'll have a permanent storage of 45,000 tires, simply
8 because it's going to take them 35 years of 200 days a
9 year, 20 however many truck loads.

10 So really -- and then we're talking about -- this
11 is a whole different bag. And we'd like surface storage
12 to be addressed. And of course, the regulations, Keith
13 has pointed out, what they've done is they've gone a long
14 ways to put the onus, you know, on the operator and that
15 to provide plans and everything. So that's the good news.

16 The bad news is, until we see the detail of this
17 kind of a plan, we haven't the slightest idea, you know,
18 of how adequate it is. Like right now I think there's a
19 one and a quarter inch water line is supposed to take care
20 of the fires. Now, we'll assume that that's going to be
21 improved a little bit.

22 So in any event, that's what I'm at right now.
23 Mostly I'm concerned about the water. If there's one
24 serious concern and only one, it goes to the water
25 contamination. Because at that point, if we get seepage

1 through that hole, if we get water contamination by any
2 means, at that point it is no longer a joke. You don't
3 come out with a "whoops." At that point we've got some
4 major serious problems. And we think it's just, in this
5 case, a little to close. And we're hoping that the
6 regulations can hope, you know, eliminate that type of a
7 site from tire monofill.

8 Thank you so much. I appreciate it.

9 CHAIRPERSON PAPARIAN: Thank you very much.
10 Appreciate you coming all this way to speak to us about
11 the issues.

12 Vaughn Brewer.

13 MR. BREWER: Good afternoon, Chairman and the
14 Board. My name is Vaughn Brewer. I live in Copperopolis.

15 I have the same concerns that Mike does.
16 However, I am concerned about the traffic of the millions
17 of tires that come through there on trucks on a two-lane
18 road, the safety of the people that live there. I'm
19 concerned about the water contamination. And you speaked
20 earlier about cease and desist. I would like to see the
21 Board cease and desist this operation in Copperopolis.

22 Also Calaveras County has let us down. They have
23 not attended too many meetings. They have not let us know
24 how they feel about it as far as their LEA goes.

25 And as a small community member, any fire up

1 there would destroy millions of acres of forest. Not like
2 the Tracy fire. Tracy was kind of in a desert. But up
3 there it would destroy a big number of forests and
4 animals. Now, the water supply is one important to my
5 subject also.

6 I'm up here. I'm not an educated man, but I just
7 don't want to see something like that happen in a
8 community like this. It's a growing community, not that
9 fast. But within years it's going to be a large
10 community, not too large, but a livable one if there is no
11 tire monofill facility there.

12 I guess that's all I have to say. I just don't
13 want to see it there. Thank you.

14 CHAIRPERSON PAPARIAN: Okay. Thank you.

15 I have one more speaker's slip. But then you
16 said the fire marshal and Dr. Humphrey are available if we
17 have any questions.

18 George Larson from Waste Management.

19 MR. LARSON: Thank you, Mr. Chairman and members.

20 Waste Management operates Asuza Landfill monofill
21 in southern California, which handles about 11 million
22 tires per year. And we're also the project proponent for
23 the monofill which was referenced by the local citizens
24 here up in Calaveras County known as CAM, California
25 Asbestos Monofill.

1 First, I want to express my appreciation for the
2 work of your staff, who have been most forthcoming
3 providing numerous opportunities, public meetings, both
4 here in Sacramento and locally in Calaveras County to have
5 input into this process.

6 While I feel like I could provide a response to
7 each of the points raised by the previous speakers, I
8 think we have a more fundamental mission here today, and,
9 that is, to get a framework within which we can address
10 these issues in a very effective manner. And I think the
11 regulatory package as is revised in its current version is
12 a big step in that direction. There's significant
13 revisions to these regulations from the previous one.
14 Generally I would say they're all very positive from our
15 perspective. However, given their significance, I think
16 we need a little bit of time to digest and evaluate how
17 those changes would impact the operation of our current
18 facility and our future facility.

19 With that I would offer Waste Management's
20 support for staff's recommendation to move these out for
21 an additional 15-day comment period, wherein we can draft
22 and submit our comments and present them to you.

23 Thank you.

24 CHAIRPERSON PAPARIAN: Thank you very much.

25 Are there questions from Committee members?

1 Mr. Cannella.

2 COMMITTEE MEMBER CANNELLA: I'd like to ask one
3 of the questions that was raised by the residents of the
4 area.

5 How many test bores were done in the area to
6 determine the density of the property?

7 MR. de BIE: Member Cannella, you're speaking of
8 the CAM facility at Copperopolis asbestos monofill?

9 COMMITTEE MEMBER CANNELLA: Yeah. Isn't that
10 what the issue is about?

11 MR. de BIE: Well, we're talking about the
12 regulations for monofills throughout the State of
13 California. And certainly the people from Copperopolis
14 are most concerned about CAM.

15 CHAIRPERSON PAPARIAN: This is sort of an awkward
16 situation where -- I mean as far as anybody can envision
17 there's one new facility that's likely to come on-line,
18 and it's a major facility. The regulations would apply
19 statewide to any new facility. But there's only but one
20 that I think anybody is aware of that is likely to come --

21 COMMITTEE MEMBER CANNELLA: -- Copperopolis,
22 about this particular one.

23 MR. de BIE: And if I could maybe try to -- not
24 answer your question, but tell you how we're addressing
25 that kind of issue in the regulations.

1 COMMITTEE MEMBER CANNELLA: Okay. But then also
2 tell me specifically to this site.

3 MR. de BIE: And that will give George time to
4 come up and tell you more about the specifics on that site
5 or call somebody or whatever he needs to do.

6 We haven't actually seen an application yet for
7 CAM, so we don't have all those details.

8 The way we're addressing it in the regulations
9 generally is requiring that in the application
10 documentation that the operator -- the applicant provide
11 information that indicates that they have a containment
12 system for that monofill that will do basically two
13 things: Prevent water and air from getting into the tire
14 fill and, therefore, potentially contributing to
15 generation of heat and the fire by that; and then also a
16 containment that would prevent any liquids that might
17 result from a fire from leaving the monofill. And what
18 they need to demonstrate is that that containment system
19 is able to contain those liquids for the amount of time it
20 is estimated would be required to remediate the results of
21 that fire.

22 So in one situation, if it's determined that it
23 may take several months to pump out that liquid from the
24 fire, then they need to show that they have a containment
25 system that would hold that liquid in for several months.

1 If it's years that might take to remediate a fire
2 they have to show that they have a containment system that
3 can hold that liquid in for years.

4 So it's going to be a case-by-case situation.
5 We're not setting any minimum requirement. It's a
6 demonstration in the application process that they have to
7 come up with.

8 So 10 to the minus 7 may be appropriate in some
9 cases. It may not work in other cases.

10 COMMITTEE MEMBER CANNELLA: Then for the
11 regulation, not specific to Copperopolis, would the
12 regulations provide for guidance on how much -- what kind
13 of water supply needs to be on-site in the event of a
14 fire? Would there be -- would the regulations direct the
15 type of fire suppression that is available, the response
16 time, the type of equipment, all the things that would be
17 necessary to put down a fire?

18 MR. de BIE: They do not at this time. And the
19 way the fire suppression aspect is -- as well as any other
20 additional requirements to prevent fire from starting,
21 other than what we've outlined in terms of operation and
22 design, is left to the local fire authority to determine.
23 And that's certainly an issue that the community in
24 Copperopolis has problems with. That's why we've been
25 communicating with the fire marshal in trying to figure

1 out their role and responsibility in assisting local
2 jurisdictions.

3 There are minimum requirements on the kind of
4 fire equipment and amount of water necessary for storage
5 of tires above ground. And those are in a separate set of
6 regulations, not these regulations.

7 But relative to fire issues for monofills we're
8 deferring in these regs to the local fire authority.

9 COMMITTEE MEMBER CANNELLA: And then how do you
10 address the issue of -- not particularly this one, but any
11 one in the State that's close to the total water supply of
12 a community? I mean what kind of a protection do you
13 give? And in this case it's not only a community's
14 drinking water but also irrigation water. I don't know
15 how you address that, but it certainly is a valid concern.

16 MR. de BIE: It is, and we share that concern.
17 And what we've done as staff is we've communicated our
18 concern, is concerns that we've heard, with the State
19 Water Board and worked with them, consulting with them on
20 these regulations. They are the entity responsible for
21 ensuring water quality. So we have their input. And as
22 indicated again by the gentlemen from Copperopolis, we
23 have inserted where we feel we have some authority
24 language in the regs relative to siting relative to a
25 flood area and those sorts of things.

1 But beyond that, in consultation with the Water
2 Board, you know, we've not included a lot of specific
3 requirements relative to those things that are designed to
4 protect water quality. We're leaving it up to the
5 regional boards to review these projects and make those
6 assessments.

7 COMMITTEE MEMBER CANNELLA: Is it true that the
8 Water Board considers these inert and won't consider any
9 fire potential problems in addressing these regulations?

10 MR. de BIE: I can't speak about the Water Board.
11 But certainly their staff that we've communicated with
12 them indicate that, in their opinion, tires are inert
13 relative to their potential impact of water quality as a
14 tire. They do agree that a tire that burns and melts does
15 produce contaminants that are an issue relative to water
16 quality. And, again, they've worked with us on language
17 here that's designed to prevent these monofills from
18 catching fire, and also talking about the containment
19 structures to keep any liquids in.

20 But, yes, a tire as it sits on the ground, in
21 their opinion, is inert relative to water quality.

22 COMMITTEE MEMBER CANNELLA: Thank you.

23 CHAIRPERSON PAPARIAN: A couple of additional
24 questions.

25 So just to follow up on what Mr. Cannella was

1 talking about. If you have a facility in place with a lot
2 of tires and a lot of shredded tires, under the
3 requirements of these regs, then in terms of any concern
4 for water quality of water seeping through the tires, what
5 you're saying is there's not a concern for water quality
6 unless the tires have caught on fire?

7 MR. de BIE: And I don't want to speak out of
8 turn too far because I'm not, you know, Water Board staff.
9 But it's our understanding in talking with them that water
10 that contacts a tire does not pick up contaminants that
11 would be an issue relative to water quality.

12 But our concern in consulting with Dr. Humphrey
13 is that water in contact with a buried tire may contribute
14 to chemical reactions that might result in heat and
15 creating a potential fire. So that's where we come from
16 relative to water, but not necessarily water leaching
17 through and picking up contaminants.

18 CHAIRPERSON PAPARIAN: And then would that be the
19 case even for tires that meet the requirements, the
20 shredding requirements that are in the regs? In any --
21 the issue of keeping water away from the tires, is that --

22 MR. de BIE: You know, I think I need to defer to
23 Dr. Humphrey at this time.

24 But you're basically asking, you have a whole
25 tire and a potential impact of water contacting that, then

1 a shredded tire, is there any difference in terms of --

2 CHAIRPERSON PAPARIAN: Yeah, presumably you've
3 reduced the amount of air in the vicinity.

4 Dr. Humphrey, if you don't mind.

5 MR. de BIE: I think also the issue of exposing
6 the tread and the metal in there might be something to
7 look at too.

8 CHAIRPERSON PAPARIAN: Okay.

9 DR. HUMPHREY: I'm Dana Humphrey, consultant to
10 the Waste Board.

11 If the issue is primarily whether tire shreds
12 will propose a significant water quality impact once
13 they're cut, you'll have steel belts exposed, the cut
14 edges and such, you'll get a little bit of iron that's
15 going to come off, a little bit of manganese, which is an
16 alloy in the steel belts. Other than that the tires are
17 indeed a relatively inert material in terms of their
18 effects on water quality.

19 CHAIRPERSON PAPARIAN: Okay. But then following
20 up on the additional question. For tires that have been
21 cut in this way, meet the requirements of the regs, if
22 they're in the facility that meets these regs, is there a
23 remaining concern about water coming in contact with the
24 tires and creating other potential problems?

25 DR. HUMPHREY: Okay. I understand the question.

1 And it needs to be answered in a slightly broader fashion
2 than just addressing a contact with water. The
3 regulations as proposed contain several factors that will
4 minimize the potential for the tire shreds to heat on
5 their own and undergo -- and get to the point of
6 combustion temperatures.

7 Those requirements include using large pieces;
8 minimizing the amount of exposed steel belt; minimizing
9 the contact with water and air; limiting the thickness of
10 an individual cell height wise, no more than 20 feet. And
11 those factors in total are all designed to minimize the
12 likelihood of the tire shreds heating on their own.

13 So we can't say just, "Well, what about water?"
14 We do need to take a look at a little bit broader package
15 of items in the regulations than just water.

16 CHAIRPERSON PAPARIAN: Okay. And so you've
17 looked at these regs and to your satisfaction -- I'm
18 assuming, to your satisfaction they do what can be done to
19 prevent fires or other problems?

20 DR. HUMPHREY: I have looked at the regulations,
21 and actually I've been fortunate to be able to work with
22 the Board staff during our development. And what I can
23 say is that the regulation contained several important
24 features to minimize the likelihood that the tire shreds
25 will heat. But I certainly cannot stand here, nor could

1 anybody stand here, and say I can guarantee if we
2 implement these regulations and they're properly actually
3 used in the field -- I cannot give 100 percent guarantee
4 that there'll be no issues. Which is why if you look at
5 the regulations that they have features such as a
6 secondary containment system in the event that there is a
7 fire so that we can take and deal with it.

8 So we're minimizing -- taking several factors to
9 minimize the likelihood they're going to heat. Based on
10 my work, I'm confident that the likelihood of success is
11 extremely high. But if it doesn't, there's still parts of
12 the regulation to deal with that also.

13 CHAIRPERSON PAPARIAN: Is there more you would
14 recommend for the regs?

15 DR. HUMPHREY: There is no more that I would
16 recommend.

17 CHAIRPERSON PAPARIAN: Okay. And then I know
18 you're familiar with what's going on elsewhere in the
19 country. Are you aware of any other states that have
20 anything that would be more protective than what's in
21 these regs?

22 DR. HUMPHREY: I believe that if you compare what
23 California is doing to what's being done nationwide, the
24 regulations that are currently proposed should be the
25 model that other states should use. So that I think that

1 California is leading the pack as far as having good,
2 reasonable, well-thought-out regulations for scrap tire
3 monofills.

4 CHAIRPERSON PAPARIAN: Okay. But apart from -- I
5 know that some states I think ban land disposal in this
6 way. But for the States that allow it, are you aware of
7 any provisions that would be more protective than what's
8 in these regs?

9 DR. HUMPHREY: I am not aware of provisions to be
10 more protective.

11 CHAIRPERSON PAPARIAN: Okay. Any other questions
12 for Dr. Humphrey?

13 MR. GRAMERL: Would the Board allow a question
14 about permeability being addressed, or would that not be
15 entertained here?

16 COMMITTEE MEMBER CANNELLA: I think the issue was
17 addressed about permeability, is that it would be done on
18 each specific site. This issue today, the regs are not
19 specifically directed towards the monofill in
20 Copperopolis, but in fact they're statewide regulations.
21 And the provisions call for each site specifically to have
22 density tests to find out what needs to be done to protect
23 the environment and protect water supply.

24 MR. GRAMERL: Okay. And my question then would
25 be how I can obtain that information, because right now I

1 haven't been able to get any answers.

2 COMMITTEE MEMBER CANNELLA: Well, there is no
3 information available for Copperopolis because these
4 regulations haven't been adopted yet. Once they are and
5 they come forward for a permit, then those specific things
6 would be addressed in your community if and when a permit
7 is requested to operate the monofill.

8 So we're not approving anything that affects you
9 folks today.

10 MR. de BIE: One thing that we did in these
11 regulations is a bit different than other regs is that
12 we've included the Board in reviewing some of these
13 initial aspects of the permit. So, for example, the plan
14 that would include the description of the containment
15 structure would actually be reviewed by the LEA and the
16 Board prior to the LEA processing that application and
17 submitting it to the Board for processing. So we've
18 looped the Board staff into a review. And it's our intent
19 to utilize our experts, be it Dana Humphrey or others, to
20 assist us in reviewing those documents. So when a
21 document is generated, any member of the public could
22 request copies from the LEA and as well as the Board once
23 they're generated.

24 COMMITTEE MEMBER CANNELLA: There was some
25 discussion about putting clay liners or a plastic liner in

1 this, and it was rejected as part of the regs?

2 MR. de BIE: The initial try at containment
3 structure just referenced the Title 27 landfill
4 requirements. And then consulting with the Water Board,
5 the language that's in this current version relative to
6 building a structure sensitive to fire and that sort of
7 thing was developed. So you may be recalling -- Title 27
8 does talk about clay or composite liners that do include
9 geo-membranes. That was taken out in lieu of this site
10 specific, you know, "Show us that you can actually prevent
11 water from entering as well as liquids from exiting."

12 COMMITTEE MEMBER CANNELLA: Who would determine
13 then whether a clay liner or composite liner or whatever
14 would be a requirement for a monofill?

15 MR. de BIE: The LEA would review and approve
16 that and Board staff would review and approve that. And
17 then certainly through the permit process, the Board
18 itself would have an opportunity to make a statement
19 whether that was appropriate in their opinion.

20 COMMITTEE MEMBER CANNELLA: Okay. So the
21 containment regs do allow for such type of a
22 self-containment policy relative to each and every
23 monofill?

24 MR. de BIE: Each and every, yeah.

25 COMMITTEE MEMBER CANNELLA: Okay, great. Thank

1 you.

2 CHAIRPERSON PAPARIAN: And, Mr. de Bie, you
3 indicated that a representative from the State Fire
4 Marshal is also here?

5 MR. de BIE: That's my understanding.

6 Would you like him to speak?

7 CHAIRPERSON PAPARIAN: Just briefly. At least
8 you'll be able to indicate that this wasn't a wasted trip.

9 Yeah, if you could identify yourself for the
10 record also.

11 DEPUTY STATE FIRE MARSHAL SLAUGHTER: Good
12 afternoon. My name is Rodney Slaughter. I'm a Deputy
13 State Fire Marshal Extraordinaire.

14 (Laughter.)

15 DEPUTY STATE FIRE MARSHAL SLAUGHTER: And I've
16 been working with the California Integrated Waste
17 Management Board since 1992 on tire fire issues. Right
18 now the State Fire Marshal's Office is on contract to
19 develop regulations for the fire service community as well
20 as provide training for the fire departments throughout
21 the State of California.

22 CHAIRPERSON PAPARIAN: The residents of
23 Copperopolis indicated they weren't completely satisfied
24 with -- I don't want to mischaracterize what they had to
25 say.

1 But let me just ask you: Have you been providing
2 training to the local fire department?

3 DEPUTY STATE FIRE MARSHAL SLAUGHTER: To my
4 knowledge, the local fire department has not contacted the
5 State Fire Marshal's Office and requested any help
6 whatsoever. So we haven't had any contact with the local
7 fire department at this point.

8 CHAIRPERSON PAPARIAN: Okay. In terms of the
9 regulations themselves, have you been able to look at the
10 regulations and determine whether there's anything from a
11 fire prevention perspective?

12 DEPUTY STATE FIRE MARSHAL SLAUGHTER: I've
13 reviewed the regulations. I haven't digested them just to
14 this point. I'd like to probably go over them a little
15 bit more.

16 I'm familiar with above-ground storage techniques
17 and practices. And from the State's perspective, we're of
18 course concerned with large storage of any types of
19 combustibles, especially tires, here in California.

20 But the regulations looked pretty good to me from
21 what I can understand.

22 And a couple of things that the locals had
23 brought up, one of the things in terms of water quality
24 issues. Right now they're using bale tires in other parts
25 of the country. I just came back from a conference in

1 November in new Mexico. They're actually using bale tires
2 with cement providing the arroyos for water supply systems
3 and things like that. So I don't think there's a water
4 quality issue in terms of storing the tires themselves.

5 And in California I think that it would be
6 difficult to site a waste tire facility in an area that
7 isn't going to impact a water supply or water storage of
8 some type anywhere in the State. I mean even in Tracy our
9 concern was underground water supply. With the Westley
10 tire pile we have the aqueduct. So that I think that no
11 matter where we try to site a tire pile in California,
12 we're going to have some issues with, if there is a fire,
13 the potential for the runoff of the pyrolytic oil
14 afterwards.

15 Also they mentioned the local fire department and
16 the fire department's authority and that the State Fire
17 Marshal should probably take the heat for anything that
18 happens. And I'd like to address that.

19 The State Fire Marshal's Office has approximately
20 97 employees at this point. We drive Toyota Priuses and
21 Camrays. We're not an emergency response agency. The
22 State Fire Marshal's Office is strictly fire prevention
23 regulations and that kind of thing.

24 We have no span of control over fire operations.
25 So we come out as an advisory. I've been out as an

1 advisory to both the Tracy tire site and the Westley tire
2 site. So we don't really have the span of control over
3 local operations, local fire operations.

4 The local fire department hasn't contacted us at
5 this point. If they had a concern, there are certainly
6 resources at the State Fire Marshal's Office that we can
7 provide for them, and we'd be more than willing to help
8 them out. But that request has to come to them -- from
9 them to us for the most part.

10 And in terms of the local fire authority, I think
11 the locals should give their department a little bit more
12 credit. There's lots of outreach training programs and
13 things like that. I think that the local fire department
14 probably has a pretty good idea of what they need to do to
15 prevent fires or to mitigate the fires once they get
16 started.

17 Public access, as the locals had talked about.
18 One of the things that we propose is that there is a
19 minimal amount of public access to these facilities
20 because of the potential fire problems. So I could see
21 giving tours and that kind of thing. But limiting access
22 to the public I think is pretty important for a waste tire
23 storage facility.

24 CHAIRPERSON PAPARIAN: Just so I understand, the
25 role of the Fire Marshal is in the fire prevention side of

1 things?

2 DEPUTY STATE FIRE MARSHAL SLAUGHTER: Correct.

3 CHAIRPERSON PAPARIAN: And in terms of fire
4 suppression once it starts --

5 DEPUTY STATE FIRE MARSHAL SLAUGHTER: We're
6 totally out of the ball game.

7 CHAIRPERSON PAPARIAN: That would be like the
8 Department of Forestry and Fire Protection?

9 DEPUTY STATE FIRE MARSHAL SLAUGHTER: Definitely.

10 CHAIRPERSON PAPARIAN: Are you part of that
11 Department or no?

12 DEPUTY STATE FIRE MARSHAL SLAUGHTER: Yes. The
13 State Fire Marshal's Office about five years ago merged
14 with the California Department of Forestry and Fire
15 Protection. So we're a part of the Resources Agency at
16 this point.

17 CHAIRPERSON PAPARIAN: In terms of looking at,
18 you know, what types of things should be kept at a site to
19 assure that they have the minimal amount of stuff for
20 suppressing a fire should it start, would that be your
21 role or their --

22 DEPUTY STATE FIRE MARSHAL SLAUGHTER: That would
23 be pretty much the local fire authority.

24 CHAIRPERSON PAPARIAN: Do you recommend things
25 related to that for regulations or no?

1 DEPUTY STATE FIRE MARSHAL SLAUGHTER: You know,
2 at this point there are no State regulations relative --
3 let me backup here -- there are no fire regulations
4 adopted by the State Fire Marshal's Office as minimum
5 standards for local fire departments. A local fire
6 department can if they choose to adopt a national standard
7 at the local level. So they can go out to NFPA 230
8 Appendix G and adopt that section of the code. Or that
9 you go out to another model code, the Uniform Fire Code,
10 and adopt sections on tire storage from that.

11 But right now the State Fire Marshal's Office
12 does not have the statutory authority to put together tire
13 regulations in the State of California. We have a
14 proposal working with the Integrated Waste Management
15 Board to try to do that. You know, that's kind of pending
16 at this point.

17 CHAIRPERSON PAPARIAN: Okay. But if we wanted
18 to -- I see that you want to speak again, but hold off
19 just a minute.

20 If we wanted -- well, I guess the question is:
21 Where would the jurisdiction lie. If we wanted to assure
22 that, you know, the proper amount of fire extinguishers
23 and hoses and the types of dry chemical, whatever you
24 would need at a tire facility or tire monofill would --

25 DEPUTY STATE FIRE MARSHAL SLAUGHTER: We have

1 worked with the Integrated Waste Management Board on the
2 drafting of their regulations. So the regulations for
3 outdoor storage of scrap tires has information in there in
4 terms of fire extinguishers, pipe poles, you know, things
5 of that nature.

6 CHAIRPERSON PAPARIAN: Does that fall within
7 these regulations? If we wanted to have some confidence
8 that the local -- that a facility cited under these
9 regulations had the adequate amount of fire protection
10 equipment, you know, staff training, whatever else they
11 might need, would that be part of these regulations or
12 would we rely on the local fire department to take care of
13 stuff like that?

14 MR. de BIE: Both maybe. I think we could work
15 with the Fire Marshal or other entities to come up with
16 some minimum requirements statewide about -- you know, at
17 a minimum have these kinds of things here. But the site
18 specific, if there's any additional requirements, would
19 need to be left with that authority that has that
20 jurisdiction.

21 So my sense of what's in the tire storage
22 regulations may be basically a minimum requirement. In
23 most cases this amount of tires in this location could be
24 handled with X amount of, you know, water available at a
25 flow rate, et cetera.

1 With a monofill I think it may be more difficult
2 to do that because they're going to be different sizes,
3 they're going to be operated sightly differently, that
4 sort of thing.

5 So, again, in the regs what we've done is
6 deferred entirely to the fire authority on a case-by-case,
7 site-by-site situation to make those determinations. And
8 what we're requiring is the operator to demonstrate to us
9 in their application that they've obtained that review and
10 that approval from the fire authority.

11 CHAIRPERSON PAPARIAN: Okay. So if a facility
12 were to be cited under these regs, then they would have to
13 go to the local fire authority and the local fire
14 authority does have the authority to tell them what type
15 of fire suppression equipment to have?

16 MR. de BIE: That's my understanding is is that
17 they could dictate that to some extent. Whether that has
18 to be consistent with an ordinance or it can be site
19 specific, I'm not sure. But it's our understanding that
20 the fire authority can do that. And it's very similar to
21 the way we structured it with other kinds of facilities
22 like compost facilities and landfills, is that there needs
23 to be some evidence of compliance with local fire
24 authority as part of the permit.

25 One idea that we had investigated was the

1 possibility of -- an additional requirement on the
2 operator is that the type of evidence that they've met the
3 requirements for the Fire Marshal would have some
4 indication that the -- or not Fire Marshal -- local fire
5 authority is some indication that the fire authority made
6 an effort to consult with the Fire Marshal's Office. And
7 that was -- I thought that we had in a response to the
8 folks from Copperopolis, because they'd really want to see
9 the Fire Marshal included in. But clearly we didn't see
10 the authority to require that kind of process to occur
11 locally. So we rejected that idea.

12 CHAIRPERSON PAPARIAN: Mr. Jones, I think you
13 had --

14 COMMITTEE MEMBER JONES: I have a couple of
15 questions.

16 CHAIRPERSON PAPARIAN: Go ahead.

17 COMMITTEE MEMBER JONES: Mr. Fujii, I know that
18 this has always been weird, but the tire group I thought
19 always kind of dealt with this. But because this was a
20 permitting issue, P&E is, is it kind of sounds to me that
21 I'm hearing some things that aren't consistent with what's
22 going on for above-ground storage of tires where there is
23 a requirement for a minimal amount of fire protection as
24 well as the fire plan. And that may just be a case of
25 each house not knowing what the other house is doing.

1 But I think one thing that we've got to be really
2 aware of here is we're talking about a monofill. These
3 are monofill regs. That means they're going to be buried.
4 And when they are buried, they are covered. When they are
5 covered, you minimize the amount of problem that you're
6 going to have with spontaneous combustion and things like
7 that with fires.

8 So I think we've got to get it into a
9 perspective -- we were kind of talking about above-ground
10 storage. And if I'm not mistaken, isn't the dirt at the
11 old Copperopolis a ph of 7? I mean it's basically a
12 neutral ph. Which one of the issues that I think Dr.
13 Humphrey has always found when there's been tires is that
14 they've been high organic fractions in the -- I don't know
15 if it's consistent, but I remember reading something that
16 there was always a high organic number in the dirt that
17 was mixed. Is that pretty accurate?

18 DR. HUMPHREY: Committee Member Jones, that high
19 organic content in the covering soil is a factor that
20 contributes to heating of tire shreds. So that if you
21 look -- the regulations in fact minimize the amount of --
22 or regulate the amount of organic material that's allowed
23 in the cover soil.

24 CHAIRPERSON PAPARIAN: Right. And I know these
25 regs are for other places besides Copperopolis. But the

1 folks are here from Copperopolis, and I think it's fair to
2 talk about these things because they have real concerns.
3 But if it's got a ph of 7, then it's not going to have any
4 organics or a minimal amount because I mean that's a
5 neutral ph.

6 DR. HUMPHREY: Correct, it's a neutral ph in
7 terms of the organic content. You still can have a high
8 organic content with approximately a neutral ph. An
9 example would be peat, which is almost all organics.
10 Sites that I have worked with peat, the ph hovers between
11 6, which is very slightly acidic, and 7, which is neutral.

12 So that indeed the separate requirement that the
13 soil have no more than five percent loss on ignition,
14 which would be essentially the organic content, is valid.

15 CHAIRPERSON PAPARIAN: Okay. So part of those
16 regs that you guys have put together deals with that fire
17 suppression issue because in fact this is a monofill so
18 those tires are going to be getting covered with
19 material -- with dirt.

20 DR. HUMPHREY: And to go one step beyond that --
21 I mean the overall objective is to minimize the likelihood
22 that there's going to be a fire, because that's the
23 best -- the best cure is prevention.

24 COMMITTEE MEMBER JONES: Right. Okay.

25 I just wanted to -- because I know there's some

1 regs -- some stuff. That's why I asked the Chair that I
2 could speak, because you've got those requirements in
3 above-ground storage, right, Mr. Fujii? I mean some
4 requirements for just above-ground storage?

5 MR. FUJII: You're talking about the --

6 COMMITTEE MEMBER JONES: Fire suppression.

7 MR. FUJII: Yeah, there -- in the above-ground
8 storage regs, which are still -- the new version is still
9 coming out, but they do address fire suppression.

10 But there aren't, again, specific requirements.
11 I mean there are some stuff in there. But we also do
12 defer to the local fire authorities for, you know, site
13 specific requirements. I mean it's not entirely different
14 than what we're proposing for the underground stuff as
15 well.

16 CHAIRPERSON PAPARIAN: Although I seem to recall
17 in there there was some specific minimum fire
18 extinguishers or types of fire extinguishers and stuff
19 like that.

20 MR. FUJII: Right. There is some stuff in there
21 now. And it talks about a pipe pole and some minimal
22 things. But I think what we're talking about is something
23 very large scale. And I think the new regs will be a
24 little bit more generic because we're understanding now --
25 I mean some of those regs were written before we had

1 Westley, before we had Tracy. And, frankly, you know, a
2 pipe pole and a fire extinguisher on those kinds and size
3 of sites would just not be relevant.

4 So, you know, I mean you're right, Mr. Paparian,
5 that there were some requirements in the early versions of
6 the regs. But I think in the new version we are
7 revisiting that issue. And with the understanding that,
8 you know, there maybe needs to be some more consideration
9 given to fire suppression. And, again, it would be more
10 in consultation with the local fire authorities in
11 whatever area the sites happen to be located in to get
12 their feedback and their input.

13 CHAIRPERSON PAPARIAN: Okay. One of the issues
14 that was raised by one of the local residents was that
15 there would be some amount of tires stored at the CAM
16 facility as they were preparing for shredding and so
17 forth. There'd be some, you know -- I think the figure
18 was 45,000. But whatever the figure would be, there would
19 be some above-ground storage as the tires are being
20 prepared for disposal.

21 Would that storage area be subject to the
22 above-ground regs that we're talking about under Special
23 Waste or would they be all part of this permit?

24 MR. de BIE: I can't read your mind, Bob. But my
25 opinion is that a facility set up like that would have to

1 have two separate permits, a solid waste facility permit
2 for monofill operation and a separate permit, a tire
3 storage permit.

4 There are two different entities associated with
5 those permits. The Board directly issues the tire storage
6 permit, and the LEA would be issuing the monofill permit.

7 So in my opinion they would need two separate
8 permits.

9 CHAIRPERSON PAPARIAN: Okay. So that if there --
10 Okay. So if there were fire suppression requirements
11 which are different understandably for an above-ground
12 facility, they would be subject to those requirements in
13 addition to whatever might happen for requirements for
14 the --

15 MR. FUJII: Right.

16 CHAIRPERSON PAPARIAN: Okay. Any other questions
17 of Mr. Fujii?

18 Mr. Cannella.

19 COMMITTEE MEMBER CANNELLA: Not Mr. Fujii, but
20 just to Mr. de Bie.

21 And I certainly don't want disparage any fire
22 departments. I think they do a great job. But in the
23 case with Copperopolis, it's probably a volunteer fire
24 department, and it's probably going to provide some income
25 for the County. At what point do local property owners

1 and citizens have an opportunity to be involved in the
2 permit process and challenge whether there is sufficient
3 water or whatever else is going to be there?

4 If it's up to the local authority only, and was
5 to say that, "Yes, we got three fire volunteers and we
6 could be able to put out a fire of a million tires, and
7 we're going to approve the permit," at what point do the
8 property owners, the surrounding property owners have an
9 opportunity to challenge the opinion of local departments
10 and whether they can efficiently handle situations?

11 MR. de BIE: It will vary case-by-case.
12 Specifically, for Copperopolis and Calaveras County, it's
13 our understanding that the CAM facility's going through a
14 local CEQA review process at this time. So there's an
15 opportunity there that will come up to the Board of
16 Supervisors eventually for an approval.

17 As the solid waste facility permit process goes
18 through there'll be documentation developed and findings
19 made by the local authority. And so certainly another
20 opportunity will be to influence that process. And there
21 will be a public hearing in front of this Board when that
22 permit is concurred on.

23 So there are at least two opportunities in
24 Calaveras County for some input.

25 COMMITTEE MEMBER CANNELLA: That was one of the

1 questions that they had. So I wanted to make sure they
2 got the answer.

3 But the really important question I have is: If
4 they need two permits, do they have to pay a dollar forty
5 on each tire for each permit? I'm only kidding.

6 MR. de BIE: Not each tire, but per ton.

7 CHAIRPERSON PAPARIAN: Okay. Mister -- actually,
8 both gentlemen seem to have indicated that -- Mr. Gramerl
9 and Mr. Brewer, which one of you want to step to the
10 microphone.

11 MR. BREWER: With all due respect to the Board,
12 I'd like to request that Mr. Washington, Mr. Jones and
13 Paparian and Cannella go to our community, see our
14 community and see what the trucks are going to do as they
15 come through. And, oops, if there's a fire, what's going
16 to happen. That's all I would like to say.

17 And as far as our fire department goes, at the
18 most there's seven people in the fire department at the
19 most at one time. I had a fire next door. It took them
20 29 minutes to get there. And I'm right across the street
21 from the CAM facility.

22 COMMITTEE MEMBER WASHINGTON: Mr. Chair, I have a
23 question regarding that.

24 CHAIRPERSON PAPARIAN: Mr. Washington.

25 COMMITTEE MEMBER WASHINGTON: In terms of

1 training -- and I guess the Fire Marshal Extraordinaire
2 can come up and answer this -- do we provide or is it the
3 locals' responsibility to provide any type of training for
4 the local residents over at Copperopolis?

5 DEPUTY STATE FIRE MARSHAL SLAUGHTER: My name is
6 Rodney Slaughter with the California State Fire Marshal's
7 Office.

8 To answer your question, could I take a round
9 route here?

10 COMMITTEE MEMBER WASHINGTON: Sure.

11 DEPUTY STATE FIRE MARSHAL SLAUGHTER: At the
12 point that they had their meeting in December in
13 Copperopolis, I wasn't able to attend. I was at the
14 National Fire Academy. So one of my staff had gone out
15 there instead.

16 At the National Fire Academy it was VIP week,
17 Volunteer Incentive Programs. And fire departments around
18 the country are offered free tuition and travel and
19 expenses back to the National Fire Academy to receive the
20 kind of training that they need to get for situations like
21 this.

22 The training requirements at the local level are
23 becoming a lot more restrictive. They've got to have
24 certifications at certain levels. So we're seeing fewer
25 and fewer volunteers because, you know, at this point

1 CalOSHA regulations and things like that, there's more and
2 more training in terms of operations.

3 In terms of fire prevention, it's up to each
4 individual department. Each individual department needs
5 to, you know, step up to the plate in terms of fire
6 prevention activities.

7 COMMITTEE MEMBER WASHINGTON: So there's nothing
8 that is provided to -- most fires that break out -- and if
9 a situation, God forbid, breaks out that they just
10 described, of tires burning, people want to put the fire
11 out so they don't burn the whole community down. In a
12 process they're waiting 29 minutes for the guys who are
13 experts to get there, even though they haven't been
14 through any of these state trainings and all that stuff,
15 there's nothing that you can provide for those folks where
16 they can kind of hold off something without trying to go
17 in and extrapolate a fire or do all that other stuff where
18 they could kind of just -- I mean there's nothing that
19 they could be provided, where citizens don't want to go to
20 Sacramento, don't want to come to wherever it is to get
21 those training --

22 DEPUTY STATE FIRE MARSHAL SLAUGHTER: Well,
23 specific to tire fires, I have again a project with the
24 California Integrated Waste Management Board to provide
25 that kind of training. And the program is going to be

1 delivered all over the State. We might put Copperopolis
2 on the map just to make sure they do.

3 But the local --

4 COMMITTEE MEMBER WASHINGTON: Well, I think it
5 would help them out in the sense that they would have some
6 type of training in the fire --

7 DEPUTY STATE FIRE MARSHAL SLAUGHTER: Right.
8 We'll be sure that they're involved in that.

9 But the way local fire departments work, the
10 volunteer fire department in Copperopolis, I'm relatively
11 certain, has a memorandum of understanding, mutual aid
12 agreements with surrounding departments. And that
13 particular area is relatively rural, so the California
14 Department of Forestry and Fire Protection would probably
15 step up to the plate and help manage and, you know, deal
16 with any fire problem. They have no jurisdiction in terms
17 of the enforcement or the fire prevention practices. But
18 in terms of coming out and helping with the fire, I think
19 there'll probably be a lot of resources available, as
20 there were in Tracy and as there were in Westley.

21 So I think that the Copperopolis Fire Department
22 will get quite a bit of help.

23 CHAIRPERSON PAPARIAN: Mr. Jones.

24 COMMITTEE MEMBER JONES: Well, I think that CDF
25 is just down the road too at the -- just close to the

1 prison, aren't they? Doesn't CDF have a station right
2 down there?

3 MR. GRAMERL: You know, we may have a --

4 CHAIRPERSON PAPARIAN: Come up to the microphone,
5 if you would.

6 Mr. Jones, I certainly -- I drove by there just
7 about three or four months ago, and seem to remember a CDF
8 facility --

9 COMMITTEE MEMBER JONES: CDF is there. I mean I
10 had -- we had the garbage company in Tuolumne County. I
11 would go by --

12 MR. GRAMERL: We may have a perception problem on
13 our part. But, you know, to me a regular fire is a fire.
14 But we're talking about burning tires. And we know that
15 they burned for months and years and not been able to be
16 put out. So when I say a perception problem -- we're not
17 talking about somebody squirting a hose over there and
18 putting out a fire. My understanding is it doesn't go
19 that way. And that's why I think we have to rely on the
20 State. I hope they've been in the thick of it. And
21 squirting that hose and realizing there ain't nothing
22 happening out there, that fire ain't going out at all.

23 So to me it's kind of like -- you know, I fish
24 salmon and rock fish. Now I go out for albacore. I think
25 I know fishing. I got my stuff. Then I go out for

1 albacore, and it tears my gear all to heck. Now, I come
2 from a position to think that I knew, but I'm really
3 ignorant because I never been faced with it.

4 Now, if that happens at this facility and we get
5 that fire, that's -- like I say, you don't say, "Whoops, I
6 should have got heavier gear."

7 And one other thing I'll leave you with. And I
8 realize this isn't a give and take, so I don't necessarily
9 expect responses.

10 COMMITTEE MEMBER JONES: What is today?

11 (Laughter.)

12 MR. GRAMERL: The thing is, this thing is 800
13 foot deep and they're going to be monitoring the
14 temperature in these cells. And we also have pressure
15 problems. It's not simple combustion. That's pretty
16 complicated, and the Doctor, I'm sure, can handle that.
17 But they're going to be temperature monitoring these
18 cells. So cell number 692 -- that's 690 feet down and is
19 located in a little quadrant someplace -- is hotter than
20 billy blazes and clearly is going to pose a problem.

21 Now, I'll leave you with the thought, who's going
22 to burrow down and put that sucker out?

23 (Laughter.)

24 MR. GRAMERL: Thank you kindly.

25 COMMITTEE MEMBER JONES: Well, I think one of the

1 things I'm -- and I'm glad you brought it up. These tire
2 regs got postponed because of evidence -- and I'm talking
3 five years ago -- of evidence of engineered fills that got
4 so hot that they started on fire. We stopped these regs
5 at that point to learn more. That's when we had Dr.
6 Humphrey. So we're not -- we're trying to do this
7 responsibly.

8 To compare Tracy or Westley to any monofill is
9 not accurate for the same reasons that you talked about.
10 Both of those sites were open fill -- open, above-ground
11 sites.

12 This is being designed so that as the lifts are
13 built and dirt and materials put over it, it is for that
14 reason -- and then the reason that we said only 20 feet
15 high is because all the evidence shows that if you do it
16 this way, you limit it to 20 feet before you make that big
17 dirt lift, you're going to minimize the opportunity for
18 fire. I'm not saying eliminate, but it's the best science
19 that we could do. Believe it or not, Dr. Humphrey is
20 considered the best in the world.

21 So I'm glad that you brought up the point of the
22 comparison. Because Copperopolis will never be like a
23 Westley or a Tracy because neither of those sites ever had
24 cover applied to them. They were just open sites.

25 So I think it's fair. And that's one of the

1 reasons I brought up the fill material.

2 MR. GRAMERL: Yes, it is. I'm familiar with that
3 aspect of it.

4 COMMITTEE MEMBER JONES: So I'm hoping -- I mean
5 our goal is not to ruin that. And like your friend said,
6 come and see it. We had the garbage company up there.
7 I've been to Poker Flat plenty of times. In fact, I used
8 to go down and have some fun down there.

9 (Laughter.)

10 CHAIRPERSON PAPARIAN: I was waiting for what
11 that word would be.

12 COMMITTEE MEMBER JONES: I was trying to come up
13 with the right word.

14 COMMITTEE MEMBER CANNELLA: You went to the
15 marina and had a steak, right?

16 COMMITTEE MEMBER JONES: Spent an afternoon --

17 CHAIRPERSON PAPARIAN: Okay. Anything else,
18 members, on this?

19 The staff is looking for direction. I don't
20 think there's a resolution. I think they're looking for
21 direction to put this out for another 15 days.

22 COMMITTEE MEMBER JONES: Yeah, that's fine.

23 CHAIRPERSON PAPARIAN: And I'm seeing nods from
24 the Committee members to go ahead and do that.

25 Do you need anything else from us on that, Mr. de

1 Bie.

2 MR. de BIE: No, I don't believe so. We'll be
3 forwarding the version that was included with this item
4 out for the 15-day.

5 CHAIRPERSON PAPARIAN: Mr. Cannella.

6 COMMITTEE MEMBER CANNELLA: Would you explain to
7 those folks what happened, what we're doing?

8 CHAIRPERSON PAPARIAN: Thank you.

9 Yes, just so you know, the draft of the
10 regulations that we have before us, what we just did was
11 direct the staff to go out for an additional 15-day
12 comment period. So they'll be -- Mr. de Bie, you'll be
13 making some changes or not to what's before us?

14 MR. de BIE: No, there shouldn't be any changes
15 that we're considering at this time based on --

16 CHAIRPERSON PAPARIAN: Okay. So the draft that's
17 here will be going out for more comments. If you have
18 comments specific to the draft, keep -- are you providing
19 the local residents copies of these and notification when
20 they're going out?

21 MR. de BIE: Yeah, we're maintaining an E-mail
22 data base of people that are interested. And that seems
23 to be effective in getting the majority of the people
24 looped in, as well as a direct mailing list too.

25 CHAIRPERSON PAPARIAN: Okay. So these -- what we

1 see before us today will be going out for additional
2 comments. If you have additional comments, you'll have an
3 opportunity to go ahead and provide those. And then they
4 will come back to us again, either to go out again for
5 more comments or for adoption, probably in March or
6 February.

7 Not January, I know that.

8 MR. de BIE: I would say March. I think we need
9 to spend more time on reviewing any comments that come out
10 from the 15-day, because my sense is it will be some of
11 the make-and-break issues that come out this next time
12 that we want to spend some time on in considering. So let
13 me say March.

14 CHAIRPERSON PAPARIAN: Probably March.

15 Okay. Anything else on this item?

16 Okay. Next we have -- I think we have two more
17 items on the agenda, is that right?

18 ACTING DEPUTY DIRECTOR WALKER: Yes, we have two
19 more items.

20 Item G is just forwarded directly over to the
21 full Board.

22 And we have two more items, basically discussion
23 items.

24 And the first item is Item H --

25 CHAIRPERSON PAPARIAN: How long --

1 ACTING DEPUTY DIRECTOR WALKER: Oh, I'm sorry.

2 That should be about 20 minutes.

3 CHAIRPERSON PAPARIAN: Yeah, I wonder if we
4 should take a quick break for the court reporter and for
5 the rest of us.

6 Ten minutes, be back at 2:45.

7 And is Mr. Tennant coming for the CIA discussion
8 or no?

9 Never mind.

10 (Thereupon a recess was taken.)

11 CHAIRPERSON PAPARIAN: Okay. We'll start the
12 meeting again.

13 Mr. Walker.

14 ACTING DEPUTY DIRECTOR WALKER: Thank you.

15 This item, Item H, is presentation and discussion
16 of the Closed, Illegal, and Abandoned Site Program. And
17 we're kind of shifting gears here. We'll do a little
18 low-keyed presentation.

19 This site provides -- it's basically a new
20 program, relatively new program, started two years ago.
21 We initially presented it to the Board in December of
22 2001. And I know those initials of CIA, you know, we're
23 not like out there affiliated with the federal government,
24 you know, sniffing out terrorists and things like that.
25 But it does -- it may actually help us intimidate folks if

1 we go on a site in enforcement cases. But, no,
2 actually -- see, we use the term -- we use CIA acronym to
3 describe closed, illegal, and abandoned sites.

4 (Thereupon an overhead presentation was
5 Presented as follows.)

6 ACTING DEPUTY DIRECTOR WALKER: And basically
7 what they are -- kind of fall back to the Board's Solid
8 Waste Information System. It's our SWIS site where we
9 have the inventory of all the universe of sites that we
10 work on. It includes about 5,400 individual listings.
11 About half of them are solid waste facilities, you know,
12 transfer stations, landfills, also waste tire sites.

13 But that the other half is what we call CIA
14 sites. They're essentially all other sites other than
15 active facilities subject to permit requirements and the
16 waste tire sites.

17 LEAs are required to investigate, inspect, and
18 enforce state minimum standards at these sites.
19 Regulatory authority and the technical aspects are
20 typically more problematical than a facility, the way the
21 regulations and statute apply.

22 The sites include a lot of pre-regulation
23 municipal solid waste landfills. These are the old
24 landfills that ceased accepting waste prior to any
25 regulations in effect. Also, include a lot of

1 non-municipal or inert landfills.

2 Burn dump disposal sites represent about 500
3 sites statewide that are the old way we used to take care
4 of municipal solid waste in the State where we managed it
5 through open burning. Well, there's about 500 of these
6 sites statewide that this program addresses.

7 Another thing is, in the illegal disposal site
8 realm we have sham recycling facilities. These are
9 facilities that got going and they were clearly outside of
10 any permit requirement, and they basically abandoned the
11 site that we get involved in in investigating. Also large
12 legacy illegal dump sites we see and we've had listings
13 and worked on, and then other unpermitted illegal dumps
14 where cleanup is required.

15 One area too that is something kind of new that
16 we've been getting into are what we call non-traditional
17 illegal sites. They're typically not listed under our
18 SWIS system. And they're also addressed in a lot of cases
19 by other agencies other than LEAs, like code enforcement
20 departments and federal agencies.

21 They include like tribal nuisance dumping sites,
22 small sites, also urban and border-zone sites that are --
23 crop up. Like in urban areas we have areas in blighted
24 neighborhoods where dumping is -- very small sites, but
25 they're very -- they're all over the place in certain

1 blighted areas that we've been getting involved with. And
2 these are non-traditional type illegal sites.

3 And then also storm-water-related sites, both in
4 the urban settings and in the border zone where -- they're
5 non-point sources where trash from a watershed is
6 concentrated from storm water in spots that create these
7 very large accumulations of trash in southern California;
8 trash TMDL, you hear this term used sometimes, and that
9 ties in with that issue.

10 And abandon sites are sites basically with no
11 identifiable responsible party.

12 Environmental threats of these sites, cross
13 media -- we've used the term "cross media" quite a bit
14 because you have air, water, land, they're complicated,
15 the impacts, and also span different agencies'
16 jurisdictions so you get into some complicated situations
17 with environmental threats and response. Landfill gas,
18 leachate, public contact with waste, hazardous and toxic
19 substances, habitat degradation, nuisance orders, vectors
20 and fires.

21 The other thing too is that these older
22 pre-regulation sites we get issues with a lot of demands
23 on encroaching development and also on-site development.
24 We use the term -- there's this term "brown fields" which
25 comes up. And a lot of these sites are within that realm

1 of brown-field-type situations.

2 Prioritization of sites. We prioritize sites
3 with respect to public health and safety and the
4 environment, and based on a comparison with state minimum
5 standards that apply to these sites, and also have been in
6 accordance with procedures approved for our solid waste
7 cleanup program.

8 We have updated the compilation of the Statewide
9 sites that have been prioritized. And in the item we have
10 attached the listing of these sites. And we have about
11 160 active case investigations that are Priority A and B.
12 Basically Priority A is "confirm pollution or nuisance"
13 and B is "a threat of pollution and nuisance."

14 The emphasis on this program is assistance to
15 LEAs, because they are the ones who have the
16 responsibility to inspect, investigate, and enforce a
17 day-to-day basis on a majority of these sites. So the
18 emphasis is clearly with assistance to the LEAs. And
19 there's been a tremendous demand for that assistance that
20 we provided to LEAs.

21 We also want to make sure there's consistent and
22 technically sound site investigations and with a strong
23 scientific basis for any follow-up enforcement actions
24 that are taken. And that clearly the emphasis is on the
25 responsible party to take the lead in the cleanup

1 cooperatively or under appropriate enforcement action.

2 But this program also provides due process and a
3 referral process for where the responsible party cannot be
4 identified or is unable or unwilling to perform a timely
5 cleanup where cleanup is required. And in these cases the
6 sites are referred to our cleanup programs that we have.

7 And that's the AB 2136 Solid Waste Cleanup Program and the
8 Farm and Ranch Grant Program.

9 In the item we also compiled 26 active Solid
10 Waste Cleanup Program referral cases that potentially
11 within the foreseeable future may be presented to the
12 Board for consideration of cleanup program, cleanup
13 projects.

14 We also plan in the future to provide the
15 Committee with a more complete presentation on the Solid
16 Waste Cleanup Program, give you a good feel for what we've
17 accomplished and the types of sites we've cleaned up and
18 the different projects out there.

19 One comment on the burn dumps. Also this -- our
20 CIA program addresses requirements of the Board with
21 respect to Assembly Bill 709, passed last year, which burn
22 dumps have a cross-agency involvement of the Department of
23 Toxic Substances Control and the regional water quality
24 control boards. This program had basically been tasked
25 with compiling statewide all the burn dump sites providing

1 information on prioritization, and also land use with
2 respect to identifying sites that may be of interest to
3 the Department of Toxic Substances Control.

4 And so this program provides staff that's
5 involved with DTSC right now. DTSC is under this bill
6 required to prepare a guidance document for burn dumps
7 that we will coordinate with them and the Water Board on
8 in terms of implementation in the future.

9 Another thing before I hand it off to Glenn
10 Young, the program manager, and his staff for some brief,
11 you know, presentations of what they're doing, is I'd also
12 like to note that this program provides a lot of contract
13 management and technical service expertise that assists
14 other programs in the Board. This group with our lab
15 services contract and their expertise actually has
16 assisted the Waste Prevention and Market Development
17 Division in their investigations of composting facilities
18 with respect to odors.

19 Our group here, these staff, have excellent
20 experience in very technical air-sampling-type techniques
21 and also have lab contract services. And so this is the
22 type of service that they provide to other programs and
23 the Board.

24 In addition, they've also developed and managed
25 the interagency agreement that we have with the Office of

1 Environmental Health Hazard Assessment, which we
2 potentially will use with our conversion technologies
3 endeavors also.

4 So with that I'd like to hand this off to Glenn
5 Young and his staff to take the presentation from here.

6 MR. YOUNG: Thanks, Scott.

7 --oOo--

8 MR. YOUNG: Good afternoon, Board members and
9 ladies and gentlemen.

10 I have the privilege of supervising some very
11 excellent waste management engineers and specialists in
12 the Closed, Illegal, and Abandoned Site Section. I'm very
13 proud of the quality effort that each of the staff does in
14 working with the LEAs on high priority CIA sites.

15 I'd also like to acknowledge the corroborative
16 efforts from staff: From Wes Mindermann, Solid Waste
17 Cleanup Program; Bernie Vlach, Facility Operations Branch;
18 and Sharon Anderson's LEA Support Services Branch.

19 I'd also like to thank Kathryn Tobias and Steve
20 Levine for their professional legal counsel in
21 coordinating assistance to the LEAs on high priority CIA
22 sites.

23 Without the assistance from a lot of these other
24 Board functions, it would be difficult for the CIA program
25 to do its job. There's definitely a lot of complex issues

1 out at these CIA sites and investigation and enforcement,
2 and it requires a corroborative effort.

3 --o0o--

4 MR. YOUNG: Today I'd like to -- I've got the
5 slide up here, basically kind of covers some of the things
6 that I'd like to kind of touch on real quickly to cover
7 the types of things that our program has done this last
8 year.

9 And then following me, Dawn Owen, Frank Davies,
10 John Macanas, and Abel Martinez will be providing you with
11 specific briefings on some of the projects that we've
12 worked on, as well as some of the trainings that we've
13 worked on.

14 I'd also like to recognize some other staff that
15 aren't here today, Brad Penick and Melissa Gunter, for
16 their investigation work in San Bernardino County and San
17 Diego county.

18 One of the objectives of the BCP -- original BCP
19 was to provide technical assistance to the LEAs in matters
20 related to investigation and enforcement at CIA sites. To
21 this end we've assigned staff to each LEA jurisdiction to
22 assist them with conducting detailed or in-depth field and
23 office investigations on high priority sites within their
24 jurisdictions.

25 To date we've provided in-depth investigation

1 assistance to LEAs on 12 priority sites in Orange County,
2 Los Angeles, San Bernardino County, San Diego, Sacramento,
3 Yolo, San Joaquin, Sonoma, and Kern Counties. A couple of
4 the highlight sites that we've actually worked on, one of
5 them was the City of Huntington Beach with the Orange
6 County LEA.

7 We went down to verify some gas levels at an old
8 city landfill, of which they believe the consultant at
9 that site was falsifying data. So we helped the LEA to
10 verify the actual landfill gas conditions at this site.

11 A couple of the other sites -- notable sites are
12 the St. Francis Landfill here in Sacramento -- or the St.
13 Francis High School. I don't know if you've got
14 potentially kids going to that school, but it's on Elvas
15 Avenue between M and 65th. Dawn is going to be talking
16 about that site a little bit. But there's actually an old
17 city landfill located adjacent to the school complex
18 itself. And we've been working with the Sac County LEA on
19 that site.

20 In order to provide the necessary resources for
21 technical support, John Macanas and Donnaye Palmer have
22 helped us to design and build a website that provides
23 specific tools for office and field investigations. It
24 includes on-line resources and access to aerial mapping,
25 property ownership, resources, examples of investigation

1 work plans.

2 It allows the LEAs to help them to scope the
3 investigation for a CIA site as well as understand how to
4 conduct an office investigation. I'd encourage you, if
5 you have an opportunity to -- it's under the Board's
6 website under "closed, illegal, and abandoned sites," and
7 it's a pretty user-friendly website.

8 Also along the lines of technical assistance to
9 the LEAs, we've had -- Brad Penick and Melissa Gunter have
10 worked with Jennifer Brousseau and Susan Chow on
11 contracts -- to put together three contracts to support
12 the assistance to the LEAs. Those contracts are in an
13 environmental investigation contract for \$200,000 with
14 Ninyo-Moore Geotechnical Consultants in San Diego; an
15 analytical laboratory services contract with ExcelChem
16 Labs in Roseville for \$250,000; and an interagency
17 agreement with OEHHA for \$200,000 to provide risk
18 assessment support to the program.

19 The Ninyo-Moore and ExcelChem contracts we've
20 used pretty extensively in the 12 priority sites that I
21 was talking about earlier, to do activities such as
22 drilling and trenching to define the horizontal and
23 vertical extents of a CIA site, which is critical when
24 considering what types of a remedy you want to propose for
25 the site, whether it's a consolidate and cap or a clean

1 closure or determining potential paths for gas migration.

2 Also, this past year we've conducted training
3 sessions for the LEAs in northern, southern, and central
4 California. And Dawn will be giving you a quick
5 presentation on how that training went to the LEAs.

6 And I wanted to thank Sharon Anderson and Mindy
7 Fox for their help in helping us to coordinate that
8 training.

9 In conjunction with the CIWMB web master and LEA
10 central web author, we just published a web page to take
11 the place of old LEA Advisory Number 3, which was an
12 advisory that came into effect in 1992 to help LEAs to
13 perform a one-time investigation to prioritize the sites
14 for remediation or for investigation. And it also helps
15 the LEAs to reduce inspection frequency. And what we've
16 done is we have basically revamped it a little bit and
17 made it into a web page with -- that can be linked from
18 the CIA website. And it allows the LEAs to use
19 resources -- web-base resources to help them to conduct
20 investigations.

21 Finally, with the SWIS database update
22 requirements that we've had, we have basically -- there
23 was some backlog of SWIS inspection data previous to the
24 program, and that's all been handled, as well as the
25 current inspection data that comes in from the LEAs.

1 There's roughly -- I think Skip had estimated there was
2 something like 10,000 inspection forms that come in for
3 these closed, illegal, and abandoned site sections.

4 If you run the numbers with 2,500 CIA sites with
5 approximately 60, 70 percent of them getting quarterly
6 inspections, that's quite a few inspections. And our
7 staff have to make sure that that inspection data is
8 updated within the SWIS system.

9 And I'd like to, at this time, turn it over to
10 Dawn to give you a briefing on the LEA training.

11 --o0o--

12 MS. OWEN: My name is Dawn Owen and I'm with the
13 CIA. Good afternoon.

14 The training was developed at the request of the
15 LEA to help them address ongoing issues with the closed,
16 illegal, and abandoned sites, encroaching development that
17 is occurring throughout California.

18 In order to obtain topics that would address
19 these issues in a productive way, we sent out on a
20 statewide survey and asked the LEAs to provide us with
21 topics that they would like to see addressed in our
22 training.

23 We chose three venues -- Sacramento, San Diego,
24 and Bakersfield -- to provide LEAs the easiest access to
25 our training given their location.

1 The purpose of our training was to provide tools
2 in developing Phase 1, office investigations; Phase 2,
3 field investigations; inspection guidance enforcement and
4 remediations at CIA sites; and to provide success stories
5 of effective methods used in addressing CIA site issues.

6 These success stories were told by staff
7 comprised of Waste Board, LEA, OEHHA, BLM, and our
8 consultant Ninyo & Moore. The valuable information was
9 given through a variety of media, and the LEAs got the
10 best bang for their buck.

11 The LEAs were given the opportunity to interact
12 with the speaker and address specific topics to their
13 individual counties and issues. Some of these topics
14 included investigating illegal disposal sites, enforcement
15 case studies at illegal disposal sites, desert cleanups,
16 farm and ranch grants, determining location of formal
17 landfills and burn sites (GPS training), preparing Phase 2
18 field investigation work plans for CIA sites,
19 investigation of gas migration issues covering stabilizing
20 burn sites and risk assessment.

21 The classes were well received, and the LEA total
22 attendance was over 100.

23 Our evaluations came back with many suggestions
24 and we will incorporate them into the next round of
25 training set for 2004.

1 Thank you.

2 --o0o--

3 MS. OWEN: Hi. I am Dawn Owen with the CIA. And
4 I would like to discuss with you the St. Francis High
5 School, also known as Elvas Avenue Landfill.

6 Elvas Avenue Landfill, that's also known as St.
7 Francis High School, is a recently discovered site. The
8 site was originally used in the '30s as a gravel mining
9 operation, as were many sites throughout Sacramento
10 County. In the '50s the City of Sacramento used the old
11 pit as a green waste disposal area. And then in the '60s
12 the site was developed.

13 --o0o--

14 MS. OWEN: There are three properties involved:
15 The St. Francis High School, the National Guard Armory,
16 and Phoebe Hurst Elementary School. The sites are located
17 between Folsom Boulevard, M Street, and Elvas Avenue over
18 by Sac State.

19 The LEA first became aware of the site in
20 September 2001 when she received a call from a consultant
21 who told her that he had encountered high levels of
22 methane gas while conducting a geotechnical investigation
23 for further expansion of the high school.

24 The LEA called the Closed, Illegal, and Abandoned
25 Site Investigation Section for assistance.

1 --o0o--

2 MS. OWEN: The primary issue at this site is gas.

3 But there is a former nuns' quarters that are subsiding
4 due to the compaction of the landfill.

5 A probe has been installed and is reading levels
6 above 22 percent in this area. And this prompted the LEA
7 to ask for continuous monitors and alarms in the
8 buildings.

9 Because this was a newly discovered site the CIA
10 assigned a SWIS number and put it on quarterly
11 inspections. We have attended all meetings with all three
12 owners at the request of the LEA. We have reviewed all
13 plans associated with the site and wrote a gas-sampling
14 plan. And when the seven probes were installed at St.
15 Francis, we pulled samples when gas levels reached 2
16 percent by volume and we sent it to our contracted lab.

17 We have reviewed plans for the control system and
18 other issues at this site. We have assisted with the
19 interpretation of the regulations. Just recently we have
20 observed with the LEA trenching of the landfill to define
21 limits of waste and to characterize the landfill.

22 --o0o--

23 MS. OWEN: In conclusion, the LEA has sent notice
24 to all three owners to provide gas monitoring for a period
25 of one year to evaluate levels throughout the seasons and

1 to help determine the type of controls that may be needed
2 for this site.

3 Each owner is at a different stage of
4 investigation, but all three will need to address the
5 possibility of a landfill gas control system. And all
6 properties are subject to post-closure land uses.

7 This is an ongoing project, but it is moving in a
8 timely manner to protect the people who live next to and
9 go to school at the Elvas landfill.

10 There's a possibility DTSC will oversee the
11 Phoebe Hurst Elementary School because it is a public
12 school. St. Francis is private.

13 Thank you.

14 CHAIRPERSON PAPARIAN: Is there gas -- is it
15 concentrated more at the St. Francis site than the Phoebe
16 Hurst site?

17 MS. OWEN: Yes. The other two properties are in
18 the process of doing a site evaluation now for gas. So we
19 don't have -- we don't have the readings for the National
20 Guard property or the Phoebe Hurst site yet. National
21 Guard is looking into doing a -- putting probes in in
22 February and Phoebe Hurst is some time February or March.
23 We're reviewing the work plans as we speak.

24 CHAIRPERSON PAPARIAN: Okay. And then in terms
25 of the whatever possible -- I would imagine that once the

1 information is out there, interpretation of the
2 information's going to be very critical in terms of what
3 the impacts are to the children who either go to the
4 school or use the soccer fields or whatever.

5 MS. OWEN: Right, right.

6 CHAIRPERSON PAPARIAN: Are we working with OEHHA
7 or somebody to --

8 MS. OWEN: Yes, yes. We're working with them and
9 we're also working with the -- Bud Chernoff from DTSC and
10 we're working with the LEA and we are working with the
11 consultants and St. Francis and the attorneys.

12 CHAIRPERSON PAPARIAN: Okay. Will there be some
13 sort of community meeting or something at that point?

14 MS. OWEN: They're planning on having one soon.
15 We were just notified by the consultant that they would
16 like to do one.

17 But apparently they did do a CEQA analysis, and
18 the issues did not come up. The LEA attended it and he
19 said that these issues had not come up because there
20 wasn't any findings at this point.

21 CHAIRPERSON PAPARIAN: Okay. Mr. Jones.

22 COMMITTEE MEMBER JONES: Thanks, Mr. Paparian.
23 Just a couple of things.

24 The City reclaimed the gravel pits, or private
25 industry?

1 MS. OWEN: The City.

2 COMMITTEE MEMBER JONES: The City of Sacramento?

3 MS. OWEN: Yes.

4 COMMITTEE MEMBER JONES: When, approximately?

5 St. Francis has been there a long time.

6 MS. OWEN: Fifties.

7 COMMITTEE MEMBER JONES: All right. There was a
8 requirement by the State to do a SWAT.

9 Did they identify this?

10 MS. OWEN: No.

11 COMMITTEE MEMBER JONES: So the City of
12 Sacramento was supposed to do the SWATs. It was their
13 facility. They didn't identify it in the SWATs, which
14 they should have done. And they should have identified it
15 in any planning documents when people were going to build
16 on there.

17 Why would the school, the National Guard, and
18 Phoebe Hurst be responsible for a gas collection system
19 when in fact it was the City's site and the City did
20 not identify it in its SWAT and didn't identify it in the
21 planning document?

22 I know that's for a lawyer and for courts. But
23 if our -- I mean are we going to require that they put in
24 a gas system?

25 MS. OWEN: In fact they are stepping up.

1 COMMITTEE MEMBER JONES: Well, they may be
2 stepping up because they need to get the school -- I mean,
3 you know, you've got to protect the kids. I don't have a
4 problem with that. But there's a bigger issue here, as to
5 somebody not doing their job. And all I'm going to say,
6 and I -- we better be aware of that, the attorneys or
7 whoever, to not, you know, determine who's at blame here.
8 Because there's some options. This is going to be
9 expensive. And there could be some big problems here.
10 And, you know, people have been required to do SWATs. And
11 for them not to do it, that's criminal. I mean -- I don't
12 know if it's criminal, but it's pretty irresponsible.

13 So just -- I would caution our attorneys --
14 because we like to always dot these i's and cross these
15 t's, don't assume who's at fault here. Because, you know,
16 clearly you've got to put this system in, but I mean make
17 sure that people have some options, because this is
18 insane, you know.

19 I mean all these CIAs that you have that aren't
20 permitted facilities, are you cross checking them against
21 SWATs?

22 MS. OWEN: Yes.

23 COMMITTEE MEMBER JONES: Okay. All right.

24 CHAIRPERSON PAPARIAN: Mr. Cannella.

25 COMMITTEE MEMBER CANNELLA: I just had a quick

1 question, hopefully.

2 At the last one it says all three properties
3 subject to post-closure land use. What does that mean?

4 MS. OWEN: St. Francis -- how we found out about
5 it is St. Francis is planning on building a performing
6 arts center. And they had done some initial geotech to
7 see about compaction, all that kind of stuff. Apparently
8 I think they knew about it. They knew that this -- when
9 they purchased the property they knew it was a landfill
10 back then. And they wanted to put in possibly an aquatic
11 center in there. And we were reviewing everything that
12 goes on over there.

13 COMMITTEE MEMBER CANNELLA: But does the
14 post-closure land use, does that require them to put an
15 account set aside for dealing with the problem? Is it
16 something they have to monitor in perpetuity? What does
17 that exactly mean, the post-closure land use? To me
18 post-closure means -- it sounds like when you're going to
19 close, they're going to move away, you have to have a plan
20 to deal with the property after you abandon it.

21 ACTING DEPUTY DIRECTOR WALKER: Let me take a
22 crack at that. What we mean here is that any property
23 that has a solid waste disposal site on it, if they change
24 the land use, if they develop the property, they're
25 subject to our state minimum standards that requires a

1 proposal to make sure that that land use change protects
2 public health and safety and the environment.

3 So they're required. So when they change that --
4 they do that construction activity, it triggers our
5 regulations they're subject to, so it allows us to review
6 what the status is and make sure that it's done properly.

7 COMMITTEE MEMBER CANNELLA: I want to clarify.
8 It wasn't the same thing as a landfill, when you close it
9 up you have to have a closure plan, you have to collect
10 money for it, you have to maintain it. We're not talking
11 about that in this issue here?

12 ACTING DEPUTY DIRECTOR WALKER: We're not
13 talking -- because these are older sites pre-regulation,
14 but -- and they're not subject to that formal closure
15 plan, financial assurance -- but we are able to catch them
16 in that post-closure land use standard when they change
17 the land use.

18 COMMITTEE MEMBER CANNELLA: Thank you.

19 CHAIRPERSON PAPARIAN: Mr. Washington.

20 COMMITTEE MEMBER WASHINGTON: I guess, Mr. Chair,
21 I just have a few fundamental questions for either Dawn or
22 Scott.

23 In terms of the St. Francis High School, this
24 site is found to have a gas leak or something is going on
25 here in terms of gas. As you know, high school kids smoke

1 and they do all these sorts of things.

2 Am I hearing correctly that these kids are still
3 going to St. Francis High School even with this issue
4 that's before us now?

5 MS. OWEN: Yes.

6 ACTING DEPUTY DIRECTOR WALKER: I think though
7 that --

8 COMMITTEE MEMBER WASHINGTON: Who's
9 responsibility -- I mean someone --

10 ACTING DEPUTY DIRECTOR WALKER: Well, there is
11 monitoring that occurs to -- you see, if there's gas above
12 5 percent in the sub-surface, it does not necessarily
13 mean -- it's that that's the standard. You know, they've
14 got a landfill. If they have explosive levels of gas,
15 that doesn't mean that there's explosive levels of gas in
16 a building. They have to monitor it. They need to
17 prevent it from going into the building.

18 COMMITTEE MEMBER WASHINGTON: Oh, so it could be
19 coming from somewhere else?

20 ACTING DEPUTY DIRECTOR WALKER: Right, right.
21 This is not -- we're not saying at this site there's
22 explosive gas in an actual -- you know, in the bathroom
23 where the kids are smoking. There's not levels of gas --
24 explosive --

25 (Laughter.)

1 COMMITTEE MEMBER WASHINGTON: Yeah, because I'd
2 hate to see one of the kids in the math class --

3 ACTING DEPUTY DIRECTOR WALKER: No, absolutely
4 not. If there's a situation -- Yeah, we make sure -- and
5 that's a key element of these investigations is to
6 assess -- okay.

7 You've got a landfill. You've got some gas
8 migrating. You know, is that gas migrating in some area
9 where it's posing an imminent hazard? If it is, then
10 that's an emergency situation, has to be responded to
11 immediately. But if it is, it doesn't necessarily mean
12 there's a problem. There may be gas in the sub-surface,
13 and it might be making its way there. It has to be
14 monitored, it has to be controlled and prevented from
15 getting to that point.

16 COMMITTEE MEMBER WASHINGTON: Well, unfortunately
17 for me, I was around during the Belmont High School
18 situation down in L.A, which has turned into a \$350
19 million project now, where the City of Los Angeles Unified
20 School District built that school there. No kid can go to
21 it because of the same issue. The very same thing was
22 brought to the Legislature when I was on the Environmental
23 and Toxic Waste Committee by the L.A. Unified School
24 folks, and the exact same thing. "Well, it's not going to
25 affect the kids." Ultimately, it did affect the kids,

1 because it was right there in the school.

2 I just don't think that -- and I'm just trying to
3 figure out where does the authority lie where we say,
4 wait, hold, stop, these kids are at risk. At some point
5 someone has to determine they're at risk.

6 And my question is, who takes that responsibility
7 to say that these kids are at risk? If we are out there
8 doing the surveys and things like that, are we held
9 accountable?

10 ACTING DEPUTY DIRECTOR WALKER: Well, the local
11 enforcement agency is responsible for the inspection and
12 enforcement to ensure that public health and safety is
13 protected. And so they are the entity responsible on a
14 day-to-day basis. We assist them to make sure that
15 they're able to do their jobs appropriately and that they
16 are doing their job; in other words that they're not
17 ignoring something that is a problem. So that's what we
18 do.

19 And I think it's -- you know, there are
20 situations that we're very concerned about especially with
21 the use and public access where we need to make sure when
22 we go in there that -- you know, if you have a landfill,
23 you have to absolutely make it very -- you have to really
24 focus on structures and whether or not there's problems
25 going on in the structure. And that is a major focus when

1 you go in and do an investigation. So we do ensure that
2 that happens, that the LEAs are taking that into
3 consideration.

4 COMMITTEE MEMBER WASHINGTON: Right. I mean,
5 again, in the same sense that Mr. Jones just talked about
6 making sure we don't play the blame game, I want to make
7 sure that we don't have a plethora of lawsuits against the
8 County -- or the State of California because the State of
9 California knew about this thing, they had people out
10 there. Someone should inform somebody that this was going
11 on.

12 And I assure you that once parents get the word
13 and things start to happen, that there will be a plethora
14 of lawsuits against the State of California and anyone
15 else who will be held accountable for these students
16 getting these toxics in their bodies or anywhere else.
17 And so that's just a concern that I had about that.

18 ACTING DEPUTY DIRECTOR WALKER: And I think the
19 other thing to add too is, if it wasn't for the LEA and
20 this program, it would never have been identified, because
21 it wasn't on anybody's list. And because they were going
22 out there and checking up and investigating, they found
23 it. And so, you know, that's one good point of what we're
24 trying to do.

25 The other thing with Belmont, keep in mind at

1 Belmont that's on an old oil field. And so it's not a
2 landfill. I just wanted to make that clear. That's one
3 thing.

4 CHAIRPERSON PAPARIAN: Mr. Jones, you had another
5 question?

6 COMMITTEE MEMBER JONES: Yeah. DTSC -- I mean
7 you're telling me this was an organic -- this was a green
8 waste facility that got some dirt mixed into it, so it's
9 breaking down.

10 Does DTSC have statutory authority any time
11 there's a school or --

12 MS. OWEN: Only with a public school.

13 COMMITTEE MEMBER JONES: So anytime there's a
14 public school, DTSC takes the lead?

15 MS. OWEN: They haven't on this site, as per --

16 ACTING DEPUTY DIRECTOR WALKER: They have a
17 unit -- they have a schools program. And there's certain
18 activities on a school, when they occur it triggers DTSC
19 direct review. Whenever we have a site, whether it's a
20 solid waste site or whatever on a school, we bring that to
21 the attention of DTSC. I mean just -- you know, they have
22 that program. They may or may not get directly involved.
23 But we want to make sure that they're notified because
24 they do have the school unit and they have a
25 responsibility.

1 So they've been notified of this. And they --
2 you know, depending upon what they do at the school in
3 terms of building stuff or changing, you know, that may
4 actually formally trigger approval from DTSC in direct
5 involvement.

6 CHAIRPERSON PAPARIAN: Okay. Anything else?

7 Thank you very much.

8 MS. OWEN: I'd like to introduce Frank Davies,
9 who's going to speak on Bisso.

10 MR. DAVIES: Good afternoon, Board members. It's
11 an honor and a privilege to be able to address you today.
12 My name is Frank Davies, and I'm a waste management
13 engineer for the Closed, Illegal, and Abandoned Site
14 Section.

15 --o0o--

16 MR. DAVIES: And today I would like to talk to
17 you -- I'd like to talk to you about Bisso illegal
18 disposal site. This site is located in Sonoma County.
19 It's approximately 180 -- no, I'm sorry -- 850 acres. And
20 waste is located on approximately 50 acres of this site.

21 Dating back to 1986 the LEA has been unsuccessful
22 in attempting to bring the Bisso Brothers Ranch into
23 compliance with state solid waste laws and regulations.
24 Despite court judgments, fines, and even jail time imposed
25 on the Bisso brothers over the past 16 years, the brothers

1 have continued to operate a nonpermitted solid waste
2 facility.

3 ACTING DEPUTY DIRECTOR WALKER: I'd like to just
4 add on this Bisso brothers, and then Steve will know some
5 of the legacy -- this is one of these legacy, sham,
6 illegal dump, recycling. They took inert C&D. This has
7 been an ongoing -- there was inerts accepted. This has
8 been one of those -- pardon me?

9 It was sham in that they took a lot of other
10 municipal solid waste and materials. And they were under
11 legal action, court action. And this is a site that's one
12 of those dogs, those real bad ones that just goes on and
13 on. And I think -- Frank will -- this is actually a
14 successful story, because we've actually --

15 (Laughter.)

16 ACTING DEPUTY DIRECTOR WALKER: -- believe it or
17 not. We'll let Frank continue. But we're really proud of
18 this site.

19 MR. DAVIES: Well, to continue on what Scott
20 said, this actually has been a success story based upon
21 the collaboration of a lot of sections within the Board.
22 CIA staff became involved in the process early in 2001.

23 We conducted a site visit under an inspection
24 warrant issued by the Sonoma County Court. Based upon
25 this site visit, CIA staff prepared a Phase 1 and Phase 2

1 report and workplan. During this process, the enforcement
2 assistant group, led by Sue Markie, was able to provide
3 guidance to the LEA. As well as our newly developed CIA
4 web page turned out to be very successful in helping the
5 LEA.

6 The turning point came when the site ownership
7 was granted to Western Gravel Company late in 2001. And
8 the LEA issued a notice and order to the new responsible
9 party. The new site owner immediately hired an
10 environmental consultant firm to perform the Phase 2 field
11 investigation.

12 CIA's staff has met with the site owner
13 representatives, including the Sonoma County Council,
14 along with the Board's legal counsel, several times prior
15 to the commencement of the field investigation in December
16 of 2002.

17 To date, the dilapidated vehicles, -- give you a
18 picture of the site.

19 --o0o--

20 MR. DAVIES: To the left you can see the site.
21 That's just a small portion of one area where you have a
22 pile of tires, hundreds of dilapidated vehicles. That
23 just represents a small portion of this site.

24 The upper right-hand corner represents another
25 portion of the site, which is actually a huge pile of

1 waste that mysteriously caught fire in 1995 and burned for
2 several weeks.

3 And the picture you see in the lower right-hand
4 corner is actually a sampling grid map of the southern
5 portion of the site. Like I said, the site is 850 acres.
6 Proposed sampling locations are prepared by CIA staff.

7 So as I continue, to date, during the field
8 investigation we were able to provide an on-site presence
9 to the LEA and help to ensure that the environmental
10 consultant firm adequately characterized the site.

11 The dilapidated vehicles you see to the left have
12 been removed. The tire piles have been removed. In
13 addition there has been a separation and consolidation of
14 construction and demolition debris and wood waste. Now,
15 also, they currently have a wood chipping and grinding
16 operation going on at this time.

17 Currently, CIA staff is awaiting the results of
18 the Phase 2 field investigation for review and comment.
19 The current notice and order imposed on the property
20 stipulates the IWMB may remediate and seek repayment if
21 the owner fails to keep the established schedule.

22 And that pretty much sums it up. Is there any
23 questions regarding this site?

24 COMMITTEE MEMBER WASHINGTON: Yeah. Frank, help
25 me understand. There's two owners now. One was turned

1 over from these brothers, who have been committing this
2 criminal act forever. Have they ever been prosecuted?

3 MR. DAVIES: Yes, sir. Basically, there were two
4 brothers, Jack and Bill Bisso. For 16 years the County
5 has fined these brothers. They have sent them to court.
6 They've been found in contempt of court. They've been
7 jailed, et cetera, et cetera.

8 Well, eventually Western Gravel Company took them
9 to court in a case to determine the legal ownership of
10 this property. And so there was a court decision that
11 stripped the ownership of Bisso Brothers Ranch from the
12 Bisso brothers. And it's now owned by the Western Gravel
13 Company.

14 At that point a notice and order, which had
15 previously been, you know, issued to the Bisso brothers,
16 but with no response -- they had to get jailed and fined
17 and so forth -- was issued to the new owner, who has been
18 very cooperative in moving this site forward to complying
19 with state minimum standards.

20 COMMITTEE MEMBER WASHINGTON: Okay. So now we're
21 at a point where the things -- the tires, the abandoned
22 cars, all that stuff has been cleaned out?

23 MR. DAVIES: Absolutely. The surface waste that
24 you see has been removed. December 2002 I was up at the
25 site. And you have consultants doing direct push probing

1 of the site. You have the site also being trenched. And
2 we're trying to get a volume estimate as well as a waste
3 characterization for this site. Once we characterize the
4 waste, we can determine whether it stays on site, whether
5 it needs to be removed and to where, et cetera, health and
6 safety risk. And the volume estimate will be used to
7 determine a feasibility of remediation.

8 COMMITTEE MEMBER WASHINGTON: Did the Bisso
9 brothers sell the company to Western Gravel or the courts
10 took it from them?

11 MR. DAVIES: It was sort of like -- the Bisso
12 brothers and Western Gravel -- Western Gravel is owned by
13 the Bisso brothers' uncle. And basically through some
14 type of backdoor poker game, whatever, have not -- there
15 was like legal issues that allegedly defines that the
16 Court had imposed upon the Bisso Brothers Ranch ranged in
17 the hundreds of thousands of dollars. The property was
18 about to be auctioned off to pay the fines when the uncle,
19 the owner of Western Gravel Company, came in and got the
20 property paid --

21 COMMITTEE MEMBER WASHINGTON: Uncle of the --

22 MR. DAVIES: -- owns Western Gravel Company. So
23 he's, you know --

24 STAFF COUNSEL LEVINE: Hi. This is Steve Levine.

25 COMMITTEE MEMBER WASHINGTON: And I'm sorry, Mr.

1 Chair. I'm not going to take up more time. I just think
2 it's fascinating. I do, I believe -- I think it's
3 unbelievable that for 16 years -- and we sit here and talk
4 about cease and desist orders and things of that nature.
5 And here you have guys who are able to do this type of
6 thing for 16 years. That's incredible to me. That is
7 absolutely unbelievable with the type of authority that we
8 have in the State of California that people could operate
9 like this. And we sit here today and we could laugh about
10 it because something is being done about it. But it is
11 really not a funny situation, because how many more are
12 out there like this operating?

13 MR. DAVIES: Well, that's one of the beauties of
14 the CIA program --

15 COMMITTEE MEMBER WASHINGTON: I like the CIA.
16 You guys keep doing what you're doing.

17 MR. DAVIES: As Scott said, this program is
18 relatively new. It's two years. And 16 years of LEA
19 frustration was relieved. And, you know, we did something
20 with it when we came forward and assisted the LEA, which
21 is what our program is about. So in this case 16 years of
22 going in circles with this guy. The Board got involved,
23 and now we're making progress.

24 CHAIRPERSON PAPARIAN: Yeah, and I guess -- Mr.
25 Washington just -- not to open up a can of worms, but I

1 don't think this is the only site of this nature that's
2 out there. I think there are --

3 COMMITTEE MEMBER WASHINGTON: Welcome to the
4 Integrated Waste Board.

5 CHAIRPERSON PAPARIAN: There are some bad actors.
6 There are some bad actors out there. And our staff is
7 doing a great job going after them, but it's been a
8 challenge.

9 CHAIRPERSON PAPARIAN: Mr. Cannella.

10 COMMITTEE MEMBER CANNELLA: Welcome to the Waste
11 Board, Mr. Washington.

12 (Laughter.)

13 COMMITTEE MEMBER CANNELLA: You have to
14 understand that they had Ed Philbin as their attorney.

15 What I'd like to ask is -- that we've had
16 out-of-pocket expenses all these years in trying to bring
17 this site into compliance. When the property changed
18 hands was there any attempt to recoup any of the expenses
19 that the Waste Board had expended in trying to bring them
20 into compliance?

21 MR. DAVIES: Well, the thing about this is that
22 the way the program works is that enforcement is left in
23 the hand of a local enforcement agency. And so for 16
24 years there's been actions by Sonoma County courts, the
25 local enforcement agency, et cetera. It's all been a

1 county issue. It was not until it was brought to State
2 attention that we started to investigate the site.

3 Within the last two years we've seen a lot of
4 progress. We were about to spend Board money to
5 characterize this site when the new RP decided to
6 voluntarily hire an environmental consultant company. So
7 in actuality the Board has not really expended much money
8 on this site.

9 But in the future, as stipulated by the notice
10 and order, if the site owner fails to move this project
11 forward in a timely manner, we have stipulations that the
12 Board cleanup program can step in, clean the property up
13 and we try to recover the money spent at a later date.

14 COMMITTEE MEMBER CANNELLA: Okay. Thank you.

15 MR. DAVIES: If there's no more questions, I'd
16 like to turn the mic over to John Macanas.

17 MR. MACANAS: Thank you, Frank.

18 --o0o--

19 MR. MACANAS: Good afternoon, Board members. I'm
20 John Macanas. I'll give you a briefing on the Santa Fe
21 Road disposal site investigation.

22 The site is 60 acres in size, consists of four
23 separate properties. It's in an agricultural setting.
24 It's in southeast San Joaquin County, about a quarter mile
25 from the Stanislaus River.

1 Initially the site was known as the -- sorry
2 about that.

3 Would you like me to start over?

4 COMMITTEE MEMBER CANNELLA: Us tall guys got to
5 worry about that stuff.

6 MR. MACANAS: Well, I could step over here a
7 little bit.

8 Initially the site was known as the Snyder
9 Sanitary Dump Site. And it operated from the 1940's into
10 the 1950's. It accepted at that time primarily
11 agricultural type wastes.

12 In the 1960's the Snyder Dump Site was subdivided
13 into the current four parcels of properties. And from the
14 1960's into the 1990's illegal disposal activities took
15 place. It was due to this reoccurring -- or recurring
16 disposal instances that the local enforcement agency
17 decided to contact the Board for assistance. And they
18 cited violations of state minimum standards in the form of
19 cover, drainage erosion control, and site security issues.

20 At that point this site became known as the Santa
21 Fe Road Disposal Site. And during the Phase 1
22 investigation Board staff assisted the LEA in obtaining a
23 site access warrant and worked with the LEA in obtaining
24 an access permit from the Burlington Northern/Santa Fe
25 Railroad, which has an easement on three of the four

1 properties.

2 Board staff also developed a Phase 2 workplan and
3 a health and safety plan for the project.

4 --o0o--

5 MR. MACANAS: And in October of 2002 the Phase 2
6 operation took place. It took place over a four-day
7 period with two crews. We dug 69 trenches, took 231 soil
8 samples. We are currently compiling the data to develop
9 trench logs, volume estimates, photographic logs, and
10 evaluating the laboratory result from the analysis of
11 these samples taken during the investigation.

12 To date our preliminary data indicates that there
13 are elevated lead levels on two of the parcels of
14 property.

15 Upon analysis of all the data a final report will
16 be developed with recommendations for enforcement and
17 remediation. And this report will be disseminated to all
18 concerned parties.

19 I'd like to introduce -- oh, unless there's any
20 questions. Good, I brought you a lamb.

21 I'd like to introduce Abel Martinez.

22 MR. MARTINEZ: Good afternoon, members of the
23 Board. My name is Abel Martinez and I also work for the
24 CIA unit as a waste management engineer. This is a little
25 bit more of the same.

1 --o0o--

2 MR. MARTINEZ: The case that I will present to
3 you is the 14th Avenue Landfill, which is located in
4 Sacramento, California. Landfill gas migration is the
5 concern at this closed landfill.

6 The landfill was operational from 1970 to 1977.
7 And as of today we have 16 different owners that have
8 properties around and on top of the landfill.

9 From 1985 to 1997 the site was continuously
10 monitored for landfill gas, finding in several locations
11 the gas migration was occurring in concentrations above
12 the lowest possible limit.

13 Since 1997, the owners have failed to comply with
14 gas monitoring in several locations, stating the gas
15 production has dropped to where monitoring of the site is
16 no longer needed.

17 It was for this reason that the CIA unit at the
18 request of the Sacramento local enforcement agency
19 performed a two-phase gas investigation to assess the gas
20 production of the site and also the potential for gas
21 migration.

22 --o0o--

23 MR. MARTINEZ: Along with the installation of
24 nine gas monitoring wells, a total of 35 locations were
25 monitored for landfill gas. Also 21 gas samples were

1 collected and sent to the laboratory for analysis.

2 During our investigation gas was found above the
3 lowest possible limit in some of the areas. Based on
4 these results of this investigation and in coordination
5 with the regional water control board, the LEA has
6 assisted with enough tools to enforce the monitoring of
7 the site for landfill gas and to the required improvement
8 of the cover and drainage in some of the areas.

9 A group is currently assisting the LEA in
10 negotiations with some of the property owners to better
11 address the remedial actions of this site.

12 This is pretty much the current status of the
13 site at this point. And if you have any questions, I will
14 be happy to answer them. If not, I will turn the floor
15 back to my supervisor, Glenn Young.

16 CHAIRPERSON PAPARIAN: Thank you.

17 MR. YOUNG: Board members, I thought I would just
18 wrap up by saying, as you can kind of see by presentations
19 given by my staff, that there is -- that investigating a
20 closed site, especially a subdivided site, has quite a few
21 challenges. Getting past site access for 16 property
22 owners is just one of those types of challenges. And for
23 the most part, because of the time intensive nature of a
24 lot of these CIA sites, the LEAs pretty much have to do
25 what they can, but they have limited resources to do

1 anything about some of these CIA sites. Which is what we
2 tried to do, is to bring some of these resources to the
3 table.

4 Although on the investigation contract, cost
5 recovery is not concerned -- or we're not addressing that
6 initially. It may be addressed later after remediation is
7 done at the site if a remediation, say, is done -- end up
8 being done by the cleanup program.

9 But the point is that we provide the basis for
10 determining what the State minimum standards are at these
11 sites, and then determining the best potential remediation
12 and costs tied to these so that the owners can make a
13 decision on whether they want to do something or not. And
14 then if they don't do something, then basically the LEA
15 can press forward with the enforcement issues and close
16 out the loop with respect to due process under the rules.

17 That way when the cleanup program gets a referral
18 from us, it basically meets all the criteria of their
19 program. We've demonstrated that the owners, or RPs, are
20 unable or unwilling to pay for a timely remediation.

21 And that has been the case at several of the
22 sites that we've passed on to them. Four of the sites the
23 City of Newport -- or the Newport Terrace Landfill Site in
24 the City of Newport has been actually acted upon now by
25 the former city who owned the site. And they are now

1 taking up a project to try to remedy that site, as well as
2 the Franklin Field Dump and the -- which is in -- it used
3 to be a small airfield south of Sacramento that we had
4 investigated last year. The county airports is bringing a
5 project to the cleanup program potentially next spring to
6 try to have that site remedied.

7 And then, finally, the Bryte Landfill, which is
8 still -- it's been investigated. We've supported the LEAs
9 findings for noncompliance with state minimum standards.
10 And enforcement has been done and a compliance schedule's
11 been given to the owners of the site. So they've
12 basically filled all the squares with respect to due
13 process.

14 And that's kind of where we're trying to go with
15 this program is to help the LEAs to really quantify how to
16 go about doing the investigations and coming up with what
17 needs to be done at the sites.

18 The question gets asked every now and again as
19 far as, you know, differences between the cleanup
20 program's responsibilities and ours. And our primary
21 activity is to assist LEAs. We don't have a large source
22 of funding to provide to RPs who are trying to remedy
23 their sites. But we're more of a help to the LEAs and the
24 RPs to help figure out what exactly the problems are at
25 these CIA sites so that we can -- so that we can be more

1 definitive in what needs to be done with the cleanup at
2 the sites. And that can take quite a long time actually.

3 For the Santa Fe Road Site that Mac had just
4 talked about, it took 12 months to get site access to the
5 five properties at that site. And I'm not sure that if
6 the cleanup program were to go into these intensive type
7 of investigations, whether their staff time would be best
8 spent with some of these long-term investigations that
9 don't necessarily turn into a cleanup project.

10 So that concludes our presentation. If you have
11 any questions, we'd be glad to answer anything that you
12 might have.

13 CHAIRPERSON PAPARIAN: Mr. Jones.

14 COMMITTEE MEMBER JONES: Thanks, Mr. Paparian.

15 First off, congratulations. I mean that was a
16 great presentation. You guys are doing good work.

17 Which of you helped Brenda Smith on the PR 1133
18 testing? She said that she was given some very, very good
19 people and talked glowingly about some of your folks.

20 MR. YOUNG: That would be Abel, Dawn, and myself
21 and Brad Penick.

22 COMMITTEE MEMBER JONES: Great. I mean we're
23 testing compost piles to figure out best management
24 practices to try to keep that alive. We didn't have the
25 money to go out and pay for another consulting firm. This

1 group volunteered. And you guys did a great service and
2 you saved us a lot of money. And your expertise, as I
3 understand it, was incredibly valuable. So I just wanted
4 to thank you publicly.

5 MR. YOUNG: Thank you, Mr. Jones. We appreciate
6 it. We love field work. So if anybody has any field
7 work, we'll go to the field.

8 CHAIRPERSON PAPARIAN: Well, your good work is
9 showing. And I think this presentation was very helpful,
10 and us in getting a better understanding of what you're up
11 to.

12 Mr. Washington.

13 COMMITTEE MEMBER WASHINGTON: Yeah, I just wanted
14 to ask him, in terms -- you made mention that you guys
15 merely assist the LEAs.

16 MR. YOUNG: Correct.

17 COMMITTEE MEMBER WASHINGTON: Is that in
18 prosecutorial situations also?

19 MR. YOUNG: Actually staff legal counsel, Steve
20 Levine, has been basically assigned to our program to help
21 us with LEAs specifically on enforcement strategies at
22 these CIA sites. And it's been invaluable. It cracked a
23 couple of nuts that were pretty tough.

24 COMMITTEE MEMBER WASHINGTON: Good.

25 CHAIRPERSON PAPARIAN: Okay. Anything else?

1 Thank you very much.

2 We have one more item on the agenda.

3 Ms. Packard.

4 COMMITTEE MEMBER WASHINGTON: I thought we were
5 finished.

6 CHAIRPERSON PAPARIAN: We are taking this up
7 today, right?

8 ASSISTANT DIRECTOR PACKARD: Yes.

9 CHAIRPERSON PAPARIAN: Do we need a break
10 before -- are you all right?

11 You're all right. Okay.

12 Come on up.

13 I think this item you're presenting earlier than
14 you originally planned. I think you planned to do it a
15 few weeks from now. So we appreciate your effort to
16 prepare it and get it ready for us.

17 (Thereupon an overhead presentation was
18 Presented as follows.)

19 ACTING DEPUTY DIRECTOR WALKER: Scott Walker,
20 Permitting and Enforcement Division.

21 Again, what we are doing here, we've been asked
22 to do a very informal Permitting and Enforcement Committee
23 workshop that started last August. And essentially this
24 is a third in a series of workshops.

25 I'd like to just -- I want to just get us back to

1 the first slide. We have a few slides here just to kind
2 of guide the presentation here.

3 But basically these workshops are informal forums
4 for discussion of issues related to permitting and
5 enforcement. Outcomes may include policies and procedures
6 to be discussed or considered in future committee or full
7 board meetings.

8 The scope of this workshop is the Board's
9 Strategic Plan Goal 4, and specifically the Permitting and
10 Enforcement Division. Goal 4 also relates to the Board's
11 work on tires and other special wastes in the Special
12 Waste Division. And we're not going to talk about that
13 here.

14 Also, it's important to point out that the P&E
15 Division is affected by the other strategic plan goals.
16 But Goal 4 is really at the core of what the division
17 does.

18 We'll include just a brief summary of the
19 strategic plan process. Rubia Packard is here from the
20 Policy Analysis Office to provide that. Followed by a
21 summary of P&E Division current work related to the
22 strategic plan. And then just a sort of informal
23 discussion of some of the potential opportunities with
24 respect to Goal 4.

25 And then Rubia will also explain the Board's

1 process in terms of going in and actually implementating
2 of the overall strategic plan and how it relates to P&E.

3 And we'll then conclude with any comments and
4 discussion from Committee members and stakeholders.

5 So perhaps I could ask Mark to put the next slide
6 up. And then Rubia will give us a brief rundown.

7 CHAIRPERSON PAPARIAN: Maybe I should say, we may
8 be losing our focused attention here a little bit. So I'm
9 thinking -- you go ahead and go through and see if we have
10 comments and so forth. We may want to revisit this at --
11 depending on how it goes, we may want to revisit it when
12 we're a little bit fresher.

13 ACTING DEPUTY DIRECTOR WALKER: And I think Rubia
14 will be able to tell us where we're going with the full
15 Board. And we may be able to shift right into that as we
16 go through.

17 ASSISTANT DIRECTOR PACKARD: Maybe that would be
18 a good place to start. What we had intended was for each
19 of the divisions, the programs that have strategic plan
20 goals, to go through the work that they're doing right now
21 to implement the strategic plan. And then come back to --
22 and then also provide you some ideas for discussion about
23 some areas, some new areas or expanded area that they'd
24 like to explore with the Board and get some direction on.
25 And then come back in the future with more of a proposal

1 for those expanded or changed areas.

2 The intent originally was to bring this P&E goal
3 to the Board in February. And we understood that you
4 wanted at least an informal discussion, workshop-type of
5 discussion, before we actually went to the full Board with
6 this discussion. So that's why we're here today.

7 Just to back up a little bit. As you remember,
8 I'm sure, Mr. Paparian -- and, Mr. Washington, you weren't
9 here -- we worked on our strategic plan for about nine
10 months or so and adopted it finally in November of 2001.
11 It was a long process where we got a lot of input from a
12 lot of different people. The Board members worked on it.
13 The advisors worked on it. Staff worked on it. Executive
14 staff worked on it. And we came up with what we felt was
15 a pretty good plan.

16 And since that was about a year ago, the Chair
17 and the Board members as well had asked that we come back
18 to the Board and provide an update on implementation, what
19 we're doing to implement those goals. There's actually
20 seven goals in our strategic plan.

21 So that's the process that we're trying to go
22 through right now. We are choosing to start with this
23 informal process for Goal 4, which is primarily permitting
24 and enforcement. And then we're also coming to the full
25 Board this month with Agenda Item 35, and that is to go

1 over Goal 1 in our strategic plan, which deals with
2 concepts like sustainability, product stewardship, that
3 kind of thing; and Goal 7, which is zero waste. So we've
4 combined those two goals.

5 We're bringing an item to the Board this month,
6 next week, to discuss the same kinds of things, what we've
7 been doing to implement Goals 1 and 7. And what we'd like
8 to do -- like to discuss with the Board, some additional
9 activities and get some direction.

10 So we'll be doing the same thing with this item
11 in February. We'd like to bring it to the full Board and
12 discuss the ideas that Board staff have and get some
13 direction from the Board on where we might do some things
14 differently in permitting and enforcement.

15 A big part of the reason why we're here also is
16 just to continually update the Board on the things that
17 we're doing now to implement -- or have been doing over
18 the last year and we'll continue to do to implement the
19 strategic plan.

20 In terms of schedule, like I said, we're doing
21 Goals 1 and 7 this month, Goal 4 at the Committee, and
22 then next month in February we'll be doing -- we'll be
23 providing the same kind of discussion in front of the
24 Board on Goal 4 as well as Goal 2, which is the goal that
25 has to do with market development.

1 And then in March we will be discussing in front
2 of the Board Goals 3, 5, and 6. Three is our public
3 education goal. Goal 5 is our internal efficiency and
4 effectiveness goal, things we're trying to do internally
5 process-wise to improve our efficiency. And Goal 6, which
6 is our environmental justice goal.

7 So with that I'll turn it back to Scott to go
8 through the information they have here for you today.

9 --o0o--

10 ACTING DEPUTY DIRECTOR WALKER: Strategic Plan
11 Goal 4 is pretty straight forward: Manage and mitigate
12 the impacts of solid waste on public health and safety in
13 the environment and promote integrated and consistent
14 permitting, inspection, and enforcement efforts.

15 Next slide.

16 --o0o--

17 ACTING DEPUTY DIRECTOR WALKER: Give you a
18 rundown on our current work at P&E Division. Basically to
19 meet -- we are really aligned pretty closely with Goal 4.
20 And also for the most part what we do is directly mandated
21 under statute and regulations.

22 So with that, essentially to meet and sustain AB
23 939 diversion goals, California has had to significantly
24 expand and upgrade the infrastructure of solid waste
25 transfer, storage, processing and disposal facilities.

1 These facilities in and of themselves can be significant
2 threats to the environment, and if operated poorly and not
3 properly controlled, then this could actually have a
4 detrimental impact on the waste diversion.

5 The other point is, as you heard in the last
6 item, we also need to continue to be faced with the need
7 to cleanup and enforce the legacy of poor practices of
8 solid waste disposal, which we still are dealing with.

9 The bulk of our work and responsibility
10 encompasses the environmental control and regulation of
11 these facilities and sites. And this work is accomplished
12 through extensive involvement in partnership with local
13 enforcement agencies.

14 Much of our resources are spent involved in the
15 processing of permits and other facility-related actions.
16 That's a lot of our research -- or resource drain is to
17 that area. Also, the regulation development and
18 implementation continues to be a major part of our current
19 work. And as played out by the C&D and organics
20 regulation initiatives, it is extremely difficult to
21 achieve consensus on many of these regulation packages.

22 We are making good progress on the backlog of
23 these packages -- regulation packages, but we also
24 anticipate that the resource demands will continue in the
25 foreseeable future as we switch to implementation training

1 and the usual rough initial stages of implementation.

2 LEA training, assistance, and outreach in
3 addition to the LEA certification and evaluation are also
4 major commitments of our workload.

5 I also want to point out that the Board is
6 responsible as the enforcement agency for jurisdictions
7 that do not have an LEA. So that's a responsibility that
8 we have and that we also implement.

9 And, finally, our current workload includes a
10 major component on our cleanup programs, as mentioned in
11 the previous item and the related closed, illegal, and
12 abandoned site program presented today.

13 I'd like to also remind the Committee that the
14 P&E Division was the primary focus of a state audit report
15 that was completed in late 2000. And we had a heavy
16 emphasis -- have had a heavy emphasis over the past two
17 years on that report, both in the review of our programs
18 and implementation of some follow-up corrective actions.
19 And a number of our reg packages are actually an outgrowth
20 of that audit report.

21 Next slide.

22 --o0o--

23 ACTING DEPUTY DIRECTOR WALKER: Just looking at
24 the direction from the Chair, it sort of gave us -- we
25 went back with our management team and kind of looked at

1 some areas that we sort of just kind of wanted to bounce
2 out there. But to kind of look at opportunities that the
3 division has with respect to Goal 4, in spite of the fact
4 that we continued to have tremendous resource demands on
5 our current work that are further constrained by this
6 ongoing budget crisis.

7 To a certain extent we're already in progress to
8 shift in the direction of these opportunities as directed
9 by the Board in trying to be more efficient in our current
10 work that we are doing to free up more time in those
11 areas.

12 I'll just kind of run down in general some of
13 these opportunities. One of the main points is to
14 increase the LEAs role on a day-to-day site-specific
15 regulation and site basis, reduce our direct involvement
16 so we can concentrate more on the big picture policy and
17 other aspects. And so we need to continue from the
18 division's standpoint to try to, and where we can, shift
19 more of that day-to-day activity to the LEA, so we don't
20 have to like get, you know, and actually process the
21 permit for them, which is a difficult time drain. We are
22 required to provide assistance. But when does assistance
23 go too far and we spend too much time doing what they're
24 really supposed to be doing. So that balance we need to
25 continue to work on that shift.

1 I can't say that without also mentioning that
2 there is a continued work needed on the appropriate
3 balance between flexibility to the LEAs to make
4 independent decisions and the State's needs and
5 responsibility in making sure those decisions are
6 appropriate and that the State's interests are met. So
7 that's an ongoing balance that we continually need to work
8 on to maintain.

9 This ties in with our partnership effort with
10 LEAs. And our first workshop we focused on that
11 partnership, and we're in the progress of working on some
12 follow-up to that with our LEAs to continue to advance in
13 that particular area.

14 The second area is synergistic with the first and
15 essentially is to increase our focus on technical
16 expertise, research, emerging issues, and innovative
17 regulatory approaches. So as we free up more time to deal
18 with the bigger picture, we could get into more solid
19 waste technologies. Bioreactor landfills, we've been
20 involved in. We could do a lot more. Landfill gas and
21 gas to energy, post-closure land use ground fields,
22 alternative final covers, solid waste conversion
23 technologies, and composting and odor control
24 technologies. And since this is an area we do spend some
25 time in, we could certainly spend -- we'd love to be able

1 to spend a lot more time on that. But that's an area of
2 opportunity.

3 The second is these rapidly emerging issues.
4 E-waste, the division could clearly -- has a part in
5 determining some aspects of E-waste and getting involved
6 in the public health and safety aspect of it.

7 Radioactive waste has been a topic that's been
8 brought up that we are working on monitoring control
9 assistance and guidance.

10 Biosecurity, which the Newcastle Disease, it kind
11 of ties in with this biosecurity, which is ensuring that
12 these various outbreaks that are global in origin are
13 controlled and do not present a crisis situation in the
14 State. The solid waste system plays into that quite a
15 bit.

16 Organics issues. Sudden Oak Death, persistent
17 pesticides, such as clopyralid and sewage sludge,
18 mammalian composting, flesh composting, things like that.
19 Those are those rapidly emerging issues that we could --
20 we see opportunities to spend more time on.

21 The third area is to improve on our traditional
22 command and control regulation approaches. And this is an
23 area that ties in with our current effort in operator
24 certification initiative with the Solid Waste Association
25 of North America where we're actually enhancing training

1 and certification through messages involving operators
2 also.

3 Environmental management system approaches is
4 another area of advances in regulatory approach. And also
5 more use of best management practices instead of command
6 and control prescriptive standards and things like that.
7 Those are areas of innovative regulatory approaches that
8 we could see opportunities on.

9 And then the other areas include risk assessment,
10 health impacts, border zone, follow-up on the Board's
11 landfill study, climate change, global warming and solid
12 waste aspects of that. And also environmental justice.

13 I'll kind of run through really quick some of the
14 other opportunities -- categories of opportunities.
15 Clearly better data tracking and electronic and Internet
16 tools. We really need to -- there's a lot of advancements
17 here and we really need to get out in front on this and
18 take advantage of these opportunities. You know, we're
19 working on a pilot project on electronic filing of
20 inspection reports and other documents that we'd like to
21 get into. And other agencies do this. On-line training
22 and teleconferencing, things like that, which I think we
23 should be taking advantage of.

24 The next is increase cross-media and cross-agency
25 efforts and focus. We have a unique -- are in a unique

1 position with our arrangement with LEAs. I think you'll
2 find in state government probably one of the most -- the
3 best models of cooperation and collaboration of the State
4 environmental program and local agencies is our LEA
5 program. And we could use that actually to get involved
6 with other agencies, DHS, DTSC, Water Board, and try to
7 facilitate and coordinate and, you know, kind of maximize
8 our efforts and not waste our time in bumping heads with
9 different agencies. So that's an area that we could
10 continue to work on and would like to have more
11 opportunity in that area.

12 The next is taking out some of the nontraditional
13 solid waste environmental problems. I mentioned that a
14 little bit with the CIA item. You know, we've got this
15 illegal dumping, litter, nuisance dumping, urban
16 blight-type sites, storm water, TMDL trash issues.
17 There's no real agencies overseeing some of these topics,
18 and I think we could be a leader in this, these non-point
19 source type issues. And local agencies have indicated
20 that they need State assistance on these issues and that
21 it's past due and nobody's really coming up to the plate.

22 And then, finally, I'd like to talk, just present
23 an opportunity to really develop some appropriate
24 performance measures, to really get into that because, you
25 know, we really -- you know, how do we know we're really

1 protecting the environment from solid waste? I mean how
2 do we measure that performance? And that's an issue that
3 ties in with Cal EPA's environmental protection
4 indicators, the EPIC project where we have at least some
5 part of that in our diversion goals and our measurement
6 there.

7 I think that one of the things that LEAs convey
8 to us is that they feel that rather than, say, county
9 enforcement orders or fines, that there are probably
10 better ways to measure performance compliance, and that
11 we'd like to explore that to try to get at what those
12 measurement -- performance measures would be.

13 And I think with that, I'm just going to give you
14 a snapshot of sort of what we're doing, kind of some of
15 the opportunities we see. And I'll also note that we'll
16 clearly be working with the Board as we bring this Goal 4
17 back and even the other goals to full deliberation. And
18 the Permitting and Enforcement Division will be a central
19 player in that to implement the Board's vision and
20 direction on that.

21 So with that I'd like to hand it back to the
22 Chair. And if you have questions or discussion, we can go
23 from there.

24 CHAIRPERSON PAPARIAN: I'll throw out just very
25 quickly, one of the issues that I think came up in the

1 development of the strategic plan, that Mr. Jones and I
2 had some very interesting discussions about, was the role
3 of enforcement. And I think where we had some agreement,
4 Mr. Jones, was the importance of consistency of
5 enforcement regardless of who the owners of the facility
6 might be or, you know, where the facility is located, we
7 may want to explore some of that, I think, in the future.

8 Where we had some disagreement I think was -- how
9 would I put it? -- the aggressiveness of enforcement
10 versus cooperative efforts with permit holders. I think
11 that might be worth exploring. But I recognize that
12 that's one where we don't have as much agreement on in
13 terms of what direction we might take if it's any
14 different in the future.

15 Mr. Jones.

16 COMMITTEE MEMBER JONES: Well, I think you're
17 right. I think that there's a couple of issues that --
18 I'm convinced that when Ms. Packard gets her study back on
19 the State of landfills, we're going to know a little more
20 information about do our state minimum standards really
21 protect health and safety. Because, you know, we've got a
22 set of standards and we say -- you know, we go in every
23 month and we say, "Hey, are you going by these standards?"
24 But we don't really know if those standards protect
25 anything other than our jobs. And that doesn't make a

1 whole lot of sense.

2 So we should know something when we get that
3 information back as to where there are environmental
4 issues, where our standards either are not enough or, you
5 know, they're excessive or we're just, you know, working
6 on the fringes or -- really what's there because, you
7 know, the one thing that got touched on just a bit, and it
8 goes to what Mr. Paparian was talking about, our model
9 partnership with SWANA is the first time that the State
10 has ever worked, not just with operators, but operators,
11 LEAs, and Board staff, to say these are the best
12 management practices of a landfill.

13 So that when somebody goes out there and sees it,
14 they know what the heck they're looking at. That's going
15 to have a lot to do once that program -- we're in the
16 third year of a five-year pilot program to see if we're
17 going to make that a mandatory program. But we needed to
18 make sure that it was really valuable or not.

19 That's an important piece, because if people are
20 being trained to -- you know, the whole goal of this was
21 the more people know, the better they're going to be able
22 to treat what they do every day, and in spite of
23 themselves they're going to end up protecting the
24 environment one way or another.

25 So I think that that's an important piece. And

1 then we can go into the idea -- you know, I have no
2 problem with aggressive enforcement. I have no problem at
3 all. My problem is when we determine who we're going to
4 enforce against, you know, when we sit there and say all
5 these other activities don't matter, you know, let's just
6 go after this, that's where we got a real problem, you
7 know. And that would be the 16 years of Bisso. That
8 would be the how many years of mobile debris in San
9 Francisco. Seven that I know of, because I complained
10 every time until I had to take a vote to spend four
11 hundred grand to clean it up.

12 That's the type of thing that we've got to be
13 focused on, you know, to sit there and really go after.

14 The other question that this raises that I
15 just -- I'd never gotten an answer on. You had said that
16 we're the LEAs for certain counties, and I know that to be
17 true. Who evaluates that performance?

18 ACTING DEPUTY DIRECTOR WALKER: Actually the EA's
19 do get evaluated by --

20 COMMITTEE MEMBER JONES: I know the EA's -- the
21 LEAs get evaluated. I want to know who evaluates our
22 Board staff, that performs the services of LEA?

23 ACTING DEPUTY DIRECTOR WALKER: We actually do
24 evaluate them from our separate branches. And I believe
25 actually the first time through they got dinged on

1 something. They had to have a corrective plan on one
2 aspect. So I think we endeavor to try to make it fair.
3 And we actually did have discussions with our LEAs in
4 order to ensure that we are treating in terms of
5 evaluation of our EA program. And at least at the time,
6 you know, the LEAs were satisfied that we did have that
7 fairness.

8 And so we also plan in the near future, with the
9 next -- probably next month bring back the evaluation
10 process, the second cycle. And that's another thing that
11 we could talk about in terms of how we treat our EA
12 program and whether or not the current evaluation system
13 is acceptable to the Board.

14 COMMITTEE MEMBER JONES: Okay. Just so you know,
15 I've been invited by two counties to go out and see how
16 hard they have to work here to comply with their local
17 LEAs because -- and they don't see the same things
18 happening over here where we're the EA.

19 So I have made a promise that I would go down and
20 tour those four facilities -- five facilities. But that
21 bothers me a lot. But you know that and you know it,
22 because I mean I always hated being treated different.

23 ACTING DEPUTY DIRECTOR WALKER: We're definitely
24 sensitive to that, and we'd be interested in any
25 concerns --

1 COMMITTEE MEMBER JONES: Well, I'm giving you a
2 heads up that somebody's -- and I've made the promise that
3 I would go out and look. But it ain't right when the
4 State doesn't do what we -- you know, what we say.

5 ACTING DEPUTY DIRECTOR WALKER: I appreciate
6 that.

7 CHAIRPERSON PAPARIAN: We had one speaker slip --
8 I'm sorry, were you done?

9 COMMITTEE MEMBER JONES: Just one more quick
10 thing before we go on.

11 Blue shirt or blue sweater.

12 CHAIRPERSON PAPARIAN: We'll hold off on that.

13 COMMITTEE MEMBER JONES: Did you see him?

14 CHAIRPERSON PAPARIAN: Hold off.

15 Justin Malan couldn't stay. But I did want to
16 indicate that he wished to offer support for the Board
17 staff's strategic plan goals and approaches.

18 Was there any other public comment on this item?

19 Okay. If not, Bernie, this morning an issue came
20 up and you weren't here. And that's what Mr. Jones was
21 referring to. And I think -- you know, on behalf of all
22 of us, we want to apologize to your family for having to
23 take off part of your holiday in order to engage in Board
24 work. And we want to thank you immensely for your
25 willingness to step up and do what needed to be done on

1 behalf of the Board and on behalf of Cal EPA. So we thank
2 you for your great work.

3 (Applause.)

4 FACILITIES OPERATIONS BRANCH MANAGER VLACH: If I
5 could use the opportunity -- you know, I was only there
6 four days.

7 CHAIRPERSON PAPARIAN: Step up to the microphone
8 for the court reporter.

9 MR. VLACH: My name's Bernie Vlach. I'm with the
10 Waste Board staff.

11 I was only there four days. But, you know, there
12 are some people that have been down there since October.
13 These veterinarians that work for the California
14 Department of Food and Agriculture and the USDA and some
15 CCC people, they've been away from their families since
16 October. And these people are just running ragged.
17 They're burned out, but they just -- they put in 12 hour
18 days, 7 days a week, and they're basically at war with
19 this thing down there. And they're doing their best to
20 keep it under control. And those people really need to be
21 acknowledged for their work.

22 CHAIRPERSON PAPARIAN: Thank you.

23 Okay. Is there any public comment before we
24 close this meeting?

25 If not, this meeting is adjourned.

1 (Thereupon the California Integrated Waste
2 Management Board, Permitting and Enforcement
3 Committee meeting adjourned at 4:15 p.m.)
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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board,
7 Permitting and Enforcement Committee meeting was reported
8 in shorthand by me, James F. Peters, a Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 10th day of January, 2003.

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